



New South Wales

# **Wollongong Sportsground and Old Roman Catholic Cemetery Legislation Amendment (Transfer of Land) Bill 2001**

## **Explanatory note**

This explanatory note relates to this Bill as introduced into Parliament.

### **Overview of Bill**

The objects of this Bill are:

- (a) to amend the *Wollongong Sportsground Act 1986*:
  - (i) to place certain land excised from Andrew Lysaght Park, Wollongong, under the care, control and management of the Wollongong Sportsground Trust (the Trust) and dedicate it partly for public recreation and partly for tourist purposes, and
  - (ii) to close part of a public road, place the land under the care, control and management of the Trust and dedicate it for public recreation, and

Explanatory note

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- (b) to amend the *Old Roman Catholic Cemetery, Crown Street, Wollongong, Act 1969*:
  - (i) to excise certain land from Andrew Lysaght Park, and
  - (ii) to close another part of the public road referred to above and to dedicate the land as part of Andrew Lysaght Park, and
  - (iii) to allow easements to be granted through, on, in or above Andrew Lysaght Park to provide access to the Wollongong Sportsground and to permit the overhang of structures and roofs of buildings erected on the Trust's lands, and
- (c) to provide for the closing of other parts of the road the subject of the amendments referred to above and to reclassify the land as community land for the purposes of the *Local Government Act 1993*.

The Bill also makes minor, consequential and ancillary amendments to the *Wollongong Sportsground Act 1986* and the *Old Roman Catholic Cemetery, Crown Street, Wollongong, Act 1969*.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision giving effect to the amendments to the *Wollongong Sportsground Act 1986* set out in Schedule 1.

**Clause 4** is a formal provision giving effect to the amendments to the *Old Roman Catholic Cemetery, Crown Street, Wollongong, Act 1969* set out in Schedule 2.

**Clause 5** is a transitional provision that provides for the closing of part of a public road and for the classification of the land as community land for the purposes of the *Local Government Act 1993*.

## **Schedule 1   Amendment of Wollongong Sportsground Act 1986**

**Schedule 1** [1], [3], [4], [6] and [7] make amendments consequential on the amendments made by Schedule 1 [5].

Explanatory note

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**Schedule 1 [5]** inserts new Part 3A, sections 12A–12C. Section 12A vests certain land excised from Andrew Lysaght Park (as provided for in the amendment made by Schedule 2 [5]) in the Crown and dedicates part of the land for public recreation and part for tourist purposes. Section 12B provides for the closing of part of a public road and dedication of the land for public recreation. Under the amendment made by **Schedule 1 [2]**, the land the subject of sections 12A and 12B (the *supplementary trust lands*) is to form part of the trust lands administered by the Wollongong Sportsground Trust.

Section 12C is a formal provision that provides for the application of the *Crown Lands Act 1989* to the supplementary trust lands.

**Schedule 1 [8]** amends Schedule 4 to enable regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed amending Act.

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

**Schedule 2 [1]** inserts a definition in section 2 as a consequence of the amendments made by Schedule 2 [2] and [5].

**Schedule 2 [2]** amends section 4 to require the Council of the City of Wollongong (as trustee of Andrew Lysaght Park) to ensure that use of the Park is limited to passive recreational activities that provide community benefit and that do not unduly intrude on the recognition of and respect for the land as an old cemetery. The Council must also ensure that use of the Park is consistent with any applicable plan of management adopted under the *Crown Lands Act 1989*.

Under the proposed amendments, nothing in section 4 is to prevent or affect the granting of easements through, on, in or above the Park to provide access to Wollongong Sportsground or to permit the overhang of any structure or the roof of any building erected on Wollongong Sportsground Trust lands.

**Schedule 2 [3]** inserts a new section 4A that provides for the closing of part of a public road and the addition of the land to Andrew Lysaght Park.

**Schedule 2 [4]** inserts a new section 12 to enable the making of regulations of a savings or transitional nature consequent on the enactment of the proposed amending Act.

Wollongong Sportsground and Old Roman Catholic Cemetery Legislation Amendment  
(Transfer of Land) Bill 2001

Explanatory note

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**Schedule 2 [5]** amends the First Schedule, which describes the land comprising Andrew Lysaght Park, so as to excise certain land from the Park. (The excised land is further provided for in the amendments made by Schedule 1 [5]).



New South Wales

# Wollongong Sportsground and Old Roman Catholic Cemetery Legislation Amendment (Transfer of Land) Bill 2001

## Contents

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	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Wollongong Sportsground Act 1986 No 174	2
4 Amendment of Old Roman Catholic Cemetery, Crown Street, Wollongong, Act 1969 No 56	2
5 Transitional provision closing part of road and classifying as community land	2
<b>Schedules</b>	
1 Amendment of Wollongong Sportsground Act 1986	3
2 Amendment of Old Roman Catholic Cemetery, Crown Street, Wollongong, Act 1969	6

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New South Wales

# **Wollongong Sportsground and Old Roman Catholic Cemetery Legislation Amendment (Transfer of Land) Bill 2001**

No , 2001

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## **A Bill for**

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.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Wollongong Sportsground and Old Roman Catholic Cemetery Legislation Amendment (Transfer of Land) Act 2001</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on a day or days to be appointed by proclamation.	6 7
<b>3 Amendment of Wollongong Sportsground Act 1986 No 174</b>	8
The <i>Wollongong Sportsground Act 1986</i> is amended as set out in Schedule 1.	9 10
<b>4 Amendment of Old Roman Catholic Cemetery, Crown Street, Wollongong, Act 1969 No 56</b>	11 12
The <i>Old Roman Catholic Cemetery, Crown Street, Wollongong, Act 1969</i> is amended as set out in Schedule 2.	13 14
<b>5 Transitional provision closing part of road and classifying as community land</b>	15 16
(1) This section applies to the areas of land shown edged black and marked “Lot 4” and “Lot 5” on the redefinition plan.	17 18
(2) On the commencement of this section, the land to which this section applies:	19 20
(a) ceases to be a public road, and	21
(b) remains vested in the Council of the City of Wollongong, and	22
(c) is taken to be classified as community land under the <i>Local Government Act 1993</i> .	23 24
(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.	25 26 27
(4) In this section, <i>the redefinition plan</i> means the plan identified as Drawing No 3117, Sheet No RES 1, Issue C, 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.	28 29 30 31

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<b>Schedule 1</b>	<b>Amendment of Wollongong Sportsground Act 1986</b>	1
		2
	(Section 3)	3
<b>[1]</b>	<b>Section 3 Definitions</b>	4
	Insert in alphabetical order in section 3 (1):	5
	<i>supplementary trust lands</i> means the land described in sections 12A (1) and 12B (1).	6
		7
	<i>the redefinition plan</i> means the plan identified as Drawing No 3117, Sheet No RES 1, Issue C, 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.	8
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		10
		11
<b>[2]</b>	<b>Section 3 (1), definition of “trust lands”</b>	12
	Insert “, the supplementary trust lands” after “original trust lands”.	13
<b>[3]</b>	<b>Sections 3 (1) definition of “additional trust lands”, 11, 12 (1) and 14</b>	14
	Insert “and the supplementary trust lands” after “the original trust lands” wherever occurring.	15
		16
<b>[4]</b>	<b>Section 10 Revocation of dedication</b>	17
	Omit “or 9”. Insert instead “, 9, 12A or 12B”.	18



<b>[5] Part 3A</b>	1
Insert after section 12:	2
<b>Part 3A Vesting and dedication of certain other land</b>	3
<b>12A Vesting and dedication of land excised from Andrew Lysaght Park</b>	4
	5
(1) This section applies to the land comprising:	6
(a) part lots 93 and 94, DP 751299, City of Wollongong, as shown edged black and marked “Lot 1” on the redefinition plan, and	7
	8
	9
(b) part lot 94, DP 751299, City of Wollongong, as shown edged black and marked “Lot 7” on the redefinition plan.	10
	11
	12
(2) On the commencement of this section, the land to which this section applies:	13
	14
(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	15
	16
	17
	18
(b) is taken to be dedicated under the <i>Crown Lands Act 1989</i> :	19
	20
(i) in respect of the land described in subsection (1) (a)—for tourist purposes, and	21
	22
(ii) in respect of the land described in subsection (1) (b)—for public recreation.	23
	24
<b>12B Closing of part of road and vesting and dedication of that land</b>	25
(1) This section applies to the land shown edged black and marked “Lot 6” on the redefinition plan.	26
	27
(2) On the commencement of this section, the land to which this section applies:	28
	29
(a) ceases to be a public road, and	30

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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	1 2 3 4
(c)	is taken to be dedicated under the <i>Crown Lands Act 1989</i> for public recreation.	5 6
(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.	7 8 9 10
<b>12C</b>	<b>Application of Crown Lands Act 1989</b>	11
	The <i>Crown Lands Act 1989</i> applies to and in respect of:	12
(a)	the land to which section 12A applies, on and from the commencement of that section, and	13 14
(b)	the land to which section 12B applies, on and from the commencement of that section,	15 16
	except as provided by this Act or the regulations.	17
<b>[6]</b>	<b>Sections 12 (2) and 16 (1) and (4)</b>	18
	Insert “or the supplementary trust lands” after “the original trust lands” wherever occurring.	19 20
<b>[7]</b>	<b>Section 15 Trust may authorise use of original and supplementary trust lands</b>	21 22
	Insert “and the supplementary trust lands” after “the original trust lands”.	23
<b>[8]</b>	<b>Schedule 4 Savings and transitional provisions</b>	24
	Omit “of this Act.” from clause 5 (1). Insert instead:	25
	of this Act and the following Acts:	26
	<i>Wollongong Sportsground and Old Roman Catholic Cemetery Legislation Amendment (Transfer of Land) Act 2001</i> (but only to the extent that it amends this Act)	27 28 29

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<b>Schedule 2</b>	<b>Amendment of Old Roman Catholic Cemetery, Crown Street, Wollongong, Act 1969</b>	1
		2
		3
	(Section 4)	4
<b>[1]</b>	<b>Section 2 Interpretation</b>	5
	Insert in alphabetical order:	6
	<i>the redefinition plan</i> means the plan identified as Drawing No 3117, Sheet No RES 1, Issue C, 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.	7 8 9 10
<b>[2]</b>	<b>Section 4 Dedication of land in First Schedule as a public park</b>	11
	Insert after section 4 (3):	12
	(4) In exercising or performing its powers, authority, duties and functions under this section, the Council must ensure that any use of the land:	13 14 15
	(a) is limited to passive recreational activities that in the Council's opinion provide community benefit, and	16 17
	(b) does not unduly intrude on the recognition of and respect for the land as an old cemetery, and	18 19
	(c) subject to paragraphs (a) and (b), is consistent with any applicable plan of management adopted under the <i>Crown Lands Act 1989</i> .	20 21 22
	(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 for either or both of the following purposes:	23 24 25
	(a) to provide access (vehicular, pedestrian or both) to the Wollongong Sportsground,	26 27
	(b) to permit the overhang of any structure or the roof of any building erected on the trust lands of the Wollongong Sportsground Trust.	28 29 30

<b>[3] Section 4A</b>	1
Insert after section 4:	2
<b>4A Closing of part of road and dedication as a public park</b>	3
(1) This section applies to the land shown edged black and marked “Lot 3” on the redefinition plan.	4 5
(2) On the commencement of this section, the land to which this section applies:	6 7
(a) ceases to be a public road, and	8
(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	9 10 11 12
(c) is taken to be dedicated under the <i>Crown Lands Act 1989</i> for public recreation, and	13 14
(d) is taken to form part of the public park referred to in section 4 (1).	15 16
(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.	17 18 19 20
(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.	21 22 23
<b>[4] Section 12</b>	24
Insert after section 11:	25
<b>12 Savings and transitional provisions</b>	26
(1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of the following Acts:	27 28 29
<i>Wollongong Sportsground and Old Roman Catholic Cemetery Legislation Amendment (Transfer of Land) Act 2001</i> (but only to the extent it amends this Act)	30 31 32

Wollongong Sportsground and Old Roman Catholic Cemetery Legislation  
Amendment (Transfer of Land) Bill 2001

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

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- (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. 1  
2  
3
- (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: 4  
5  
6
- (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 7  
8  
9
- (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. 10  
11  
12
- [5] First Schedule** 13
- Insert after “Sydney”: 14
- , other than the land comprising: 15
- (a) part lots 93 and 94, DP 751299, City of Wollongong, as shown edged black and marked “Lot 1” on the redefinition plan, and 16  
17  
18
- (b) part lot 94, DP 751299, City of Wollongong, as shown edged black and marked “Lot 7” on the redefinition plan. 19  
20  
21