



# NSW Legislative Council Hansard

## Rookwood Necropolis Amendment Bill

Extract from NSW Legislative Council Hansard and Papers Tuesday 7 December 2004.

### Second Reading

**The Hon. TONY KELLY** (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, and Minister for Lands) [3.50 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

#### Leave granted.

This bill will help provide for the sustainable management of Rookwood Cemetery now and for future generations.

It represents the Government's commitment to ensuring that the legislative framework that governs the management of this important reserve is as effective as possible.

The bill will enable land to be set aside within the reserve areas of Rookwood Necropolis for denominational crematoria.

It allows the tenant of the existing crematorium to appeal to the Land and Environment Court by against a valuation made by the Valuer-General.

It also clarifies certain provisions relating to the revenue stream of the Joint Committee of the Necropolis Trustees, (the JCNT) and updates the Necropolis Act to accord with current legislative drafting principles.

Before discussing the proposed amendments in more detail, I would like to provide members with some background about the Rookwood Necropolis.

As many members would be aware, the Rookwood Necropolis was established in 1868.

It is one of Australia's oldest cemeteries and one of the largest dedicated burial grounds in the world, being some 283 hectares in total area.

The burial grounds have been in continuous use since its creation, with more than 800,000 bodies interred at Rookwood.

Rookwood is more than a cemetery. The area preserves a record of our architectural and social history, and is one of the reasons why Rookwood is a popular tourist attraction.

A Permanent Conservation Order protects 81 hectares which encompasses one of the largest Victorian era public cemeteries in the world.

But it is the principal role of the Rookwood Necropolis, as a city of the dead, which has given rise to the amendments placed before the House today.

Within the parameters of the Necropolis, there are several denominational reserve trusts including a General trust. These groups represent a wide range of religious and national groups which manage dedicated lands for burial purposes.

The various denominational reserve trusts at Rookwood, like many other cemetery trusts, are grappling with the problem of decreasing burial space.

The trusts have specifically allocated geographic areas for burial.

Based on current burial trends, some trusts have only enough land available for two to three years of interments, while others may have 20 to 30 years.

The trusts are exploring a variety of options to help them to manage their reserves for the future.

In managing available burial space, each trust is affected by the burial rites and rituals observed by those interred within its respective reserve area.

For those faiths that allow cremation, this option will extend the viability of existing cemetery space, by reducing the land required for interment

While this bill proposes that each denominational reserve trust has the ability to set aside land for a crematorium, the Government believes it is unlikely that every trust would seek to build a crematorium.

In determining whether to proceed with the construction of a crematorium, a trust would undertake an evaluation of the project to ensure that the proposal is viable.

Any trust that seeks to build a crematorium would also be responsible for funding the construction of the facility and for obtaining the appropriate building consents and planning permissions.

The JCNT is a management body created to maintain the infrastructure, such as roads and drainage, across the entire area of Rookwood cemetery.

These works are funded by contributions from each of the denominational reserve trusts, and rent from the existing crematorium. The rental payments from the existing crematorium provide a substantial portion of the funds used by the Joint Committee for maintenance.

The current legislation provides that the rental payable by the tenant of the existing crematorium may be calculated in two ways.

The rent may be based on 10% of the value of the land area of the crematorium, or based on 5% of the imputed revenue of the crematorium.

Where a difference exists between the two calculations, the higher figure is used. Historically, the land value has been higher.

The bill will establish a review mechanism for the parties directly affected by the land valuation. Such a mechanism did not previously exist.

Both the Joint Committee of Necropolis Trustees and the tenant of the existing crematorium will be able to appeal to the Land and Environment Court in relation to the valuation accepted by the Valuer-General.

This represents a more equitable process, and demonstrates to Government's ongoing commitment to ensure an effective legislative framework to administer the Rookwood Necropolis.

This bill also proposes to clarify the way that the Joint Committee determines the contributions payable by the reserve trusts, the process for approving these determinations and the timeframe for payment.

This will enable both the Joint Committee and the reserve trusts to better administer their finances and plan for the future.

In order to ensure that all facilities operating in the Necropolis make a contribution to the upkeep and management of the cemetery, the proposed amendments also provide for any denominational crematoria to pay a regulated fee to the Joint Committee based on the number of cremations carried out.

This fee will not apply to the existing crematorium, and is not intended to be a disincentive to cremation activities.

Rather, it is intended to safeguard the revenue stream of the Joint Committee to ensure that it can continue to maintain shared infrastructure within the cemetery grounds at an appropriate level.

Finally, the opportunity has been taken to modernise the language of the Act.

This bill includes a number of consequential amendments ensuring that references reflect the terminology of the current *Crown Lands Act 1989* rather than the repealed *Crown Lands Consolidation Act 1913*.

The bill addresses the need for greater flexibility in managing available burial space by providing denominational reserve trusts with the ability to establish crematoria should certain preconditions exist.

These amendments will not provide a solution for every reserve trust or every faith in managing available burial space.

But they do provide new options for those who do want to explore this option to improve the longevity of this historic cemetery.

Trustees of cemetery reserves are taking up the challenge of managing these spaces for the future.

This bill will assist trustees in carrying out their job by providing them with new options, and clarifying existing practices.

I commend the bill to the House.