

## **Rookwood Necropolis Amendment Bill 2004**

New South Wales

### **Explanatory note**

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

#### Overview of Bill

The object of this Bill is to amend the *Necropolis Act 1901* so as:

- (a) to allow land to be set aside within the Rookwood Necropolis for the purposes of denominational crematoria, and
- (b) to enable appeals to be made to the Land and Environment Court against a valuation by the Valuer-General of the lease of land within the Rookwood Necropolis that is leased for the purposes of a general crematorium, and
- (c) to clarify certain provisions with respect to the assessment of the annual contributions that are payable to the Joint Committee of Necropolis Trustees by the various reserve trusts that manage the cemeteries within the Necropolis, and
- (d) to require the reserve trusts that manage the denominational crematoria within the Necropolis to pay fees to the Joint Committee in relation to the cremations carried out by them, and
- (e) to clarify the Joint Committee's powers with respect to the recovery of unpaid contributions, fees and other amounts due to it under that Act, and
- (f) to update the Act by way of law revision.

The Bill also makes consequential amendments to other Acts and instruments.

#### 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 (except for Schedules 1 and 3.2) on the date of assent. The provisions of Schedules 1 and 3.2 are to commence on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision giving effect to the amendments to the *Necropolis Act 1901* set out in Schedules 1 and 2.

**Clause 4** is a formal provision giving effect to the amendments to various Acts and instruments set out in Schedule 3.

#### **Schedule 1 Amendment of Necropolis Act 1901**

**Schedule 1 [1]** amends proposed section 6A of the Act (to be inserted by **Schedule 2 [7]**) so as to enable land to be set aside for the purposes of a crematorium.

**Schedule 1 [2]** inserts proposed section 8E into the Act. The new section allows the lessor or lessee under the general crematorium lease, or the Joint Committee, to appeal to the Land and Environment Court against a valuation under Schedule 3 of the land on which the general crematorium is situated.

**Schedule 1 [3]** substitutes section 20B. Under the new section, the Joint Committee must make annual estimates of its expenditure and revenues for the following year, must determine how much additional revenue it must raise by way of contributions from the various reserve trusts and the general crematorium lessee, must seek the Minister's approval of the total amount it wishes to raise by way of contributions, must calculate (in accordance with the regulations) the amount of each individual contribution, and must notify each reserve trust and the general crematorium lessee of what its contribution is to be. Before approving a total amount, the Minister must consult with the reserve trusts and the general crematorium lessee. Contributions under the new section will be payable within 60 days after they are notified.

**Schedule 1 [4]** inserts proposed sections 20G and 20H into the Act:

- (a) Proposed section 20G requires each reserve trust that operates a crematorium to pay quarterly fees to the Joint Committee with respect to the cremations

carried out by it. The amount of the fees will be fixed by the regulations.

(b) Proposed section 20H requires each reserve trust, and the general crematorium lessee, to provide quarterly information to the Joint Committee with respect to the interments and cremations carried out by it.

**Schedule 1 [5]** inserts proposed section 36A. The new section provides that the Joint Committee may recover any contribution, fee or other amount due to it under the Act as a debt in a court of competent jurisdiction.

### **Schedule 2 Further amendment of Necropolis Act 1901 by way of law revision**

The *Necropolis Act 1901* contains a number of provisions that have fallen into disuse. It has also been affected by the repeal of the *Crown Lands Consolidation Act 1913* and the enactment of the *Crown Lands Act 1989*. Moreover, the Act is written in a style that no longer conforms to current drafting practice: despite its length it is not divided into Parts, its Schedules use ordinal (“First Schedule”) rather than cardinal (“Schedule 1”) numbering and it contains savings and transitional provisions among its substantive provisions. Its name does not reflect the fact that its operation is limited to the cemeteries at Rookwood.

**Schedule 2 [2]** retitles the Act as the *Rookwood Necropolis Act 1901*.

**Schedule 2 [1], [10], [18], [27] and [39]** divide the Act into Parts.

**Schedule 2 [5]** amends section 6 of the Act to add some new definitions.

**Schedule 2 [8]** inserts proposed section 6A into the Act. The new section replaces sections 7B, 8 and 8A (to be repealed by **Schedule 2 [9]**).

**Schedule 2 [46], [48], [50] and [54]** give cardinal numbers to the Schedules to the Act.

**Schedule 2 [56]** amends clause 1A of Schedule 5 so as to allow the regulations under the Act to contain savings and provisional provisions consequent on the enactment of the proposed Act.

**Schedule 2 [58]** adds proposed Part 3 to Schedule 5. The new Part contains savings and transitional provisions consequent on the enactment of the proposed Act, which include provisions arising from the repeal by **Schedule 2 [9]** of sections 7 and 7A of the Act.

The remaining items of Schedule 2 are consequential on the matters referred to above including, in particular, the replacement of references to “trustees” (the appropriate term under the *Crown Lands Consolidation Act 1913*) with references to “reserve trusts” (the appropriate term under the *Crown Lands Act 1989*).

### **Schedule 3 Amendment of other Acts and instruments**

**Schedule 3.1** amends the *Crown Lands (General Reserves) By-law 2001* so as to extend to the cemeteries and crematoria of the Rookwood Necropolis the provisions of that By-law that deal with cemeteries.

**Schedule 3.2** amends the *Land and Environment Court Act 1979* as a consequence of the amendment proposed by **Schedule 1 [2]**.

**Schedule 3.3** amends the *Local Government Act 1993* so as to remove any doubt that a Crown reserve that is dedicated for a public cemetery (such as a cemetery under the *Necropolis Act 1901*) is a public reserve for the purposes of the 1993 Act.

**Schedule 3.4** amends the *Necropolis Regulation 2002* as a consequence of the amendments made to the *Necropolis Act 1901* by **Schedule 2** and the amendment made to the *Crown Lands (General Reserves) By-law 2001* by **Schedule 3.1**.