

## Rookwood Necropolis Repeal Bill 2009

### Explanatory note

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

#### Overview of Bill

The public cemetery at Rookwood (***the Rookwood Necropolis***) is administered under the *Rookwood Necropolis Act 1901* (***the 1901 Act***). Almost all the other major public cemeteries in Sydney, together with one in the Hunter Valley, are administered under the *Crown Lands Act 1989* (***the 1989 Act***).

The objects of this Bill are to repeal the 1901 Act and, by means of amendments to the 1989 Act and the by-laws under that Act, to transfer the administration of the Rookwood Necropolis from the 1901 Act to the 1989 Act. The co-ordinating functions exercised by the Joint Committee of Necropolis Trustees under the 1901 Act are in future to be exercised by the Rookwood Necropolis Trust to be established under the 1989 Act.

#### 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 to be proclaimed.

**Clause 3** repeals the *Rookwood Necropolis Act 1901* and the regulations under that Act.

### Schedule 1 Amendment of Crown Lands Act 1989 No 6

#### Savings and transitional provisions

**Schedule 1 [6]** inserts a new Part 6 into Schedule 8. The proposed Part contains the following provisions:

**Proposed clause 51** defines various words and expressions for the purposes of the proposed Part.

**Proposed clause 52** abolishes the Joint Committee of Necropolis Trustees (established under the 1901 Act) and the Rookwood Necropolis Trust (a reserve trust recently established under the 1989 Act) and removes the members of those bodies from office.

**Proposed clause 53** establishes a new Rookwood Necropolis Trust as a reserve trust for the lands in the Rookwood Necropolis that are not currently managed by a reserve trust. The new trust is taken to be a continuation of, and the same legal entity as, the existing Joint Committee, and is to take over the assets, rights and liabilities of the existing Rookwood Necropolis Trust.

**Proposed clause 54** preserves the effect of any dedications, appointments and vestings that currently depend on provisions of the 1901 Act.

**Proposed clause 55** preserves existing obligations under the 1901 Act with respect to the payment of certain contributions, fees and other amounts and the provision of certain information.

**Proposed clause 56** provides that the general crematorium lease referred to in the 1901 Act is taken to be a lease granted under section 34A of the 1989 Act, and preserves certain rights of appeal that are provided for under section 8E of the 1901 Act with respect to the valuations that are made for the purpose of determining the rent payable under that lease.

**Proposed clause 57** provides that certain references to the Joint Committee and the existing Rookwood Necropolis Trust are to extend to the new Rookwood Necropolis Trust.

**Schedule 1 [5]** amends clause 25 of Schedule 8 so as to enable further savings and transitional provisions to be made by the regulations.

#### **Partial revocation of dedications**

**Schedule 1 [1]** amends section 84 so as to enable a dedication of land under the 1989 Act to be revoked in relation to part only of that land. Currently, a dedication can be revoked in relation only to the whole of the dedicated land. This amendment will bring section 84 into line with section 90 (which deals with the revocation of reservations under the 1989 Act).

#### **Payment between reserve trusts**

**Schedule 1 [2]** amends section 128 so as to enable the by-laws to make provision with respect to the payments to be made from one reserve trust to another. The proposed amendment is intended to support certain provisions of the new Division 3 that is proposed to be inserted into Part 3 of the *Crown Lands (General Reserves) By-law 2006* (see **Schedule 2 [1]**).

#### **Recovery of debts owed to reserve trusts**

**Schedule 1 [4]** amends section 147 so as to enable a reserve trust to commence debt recovery proceedings against those persons who owe money to it under the 1989 Act or the by-laws. This amendment will ensure that the Rookwood Necropolis Trust has the same means of enforcing the debts owed to it as the Joint Committee currently has under section 36A of the 1901 Act. **Schedule 1 [3]** makes a consequential amendment to section 147 (1).

#### **Schedule 2 Amendment of Crown Lands (General Reserves) By-law 2006**

##### **Special provisions concerning the Rookwood Necropolis**

**Schedule 2 [1]** inserts a new Division 3 into Part 3. The proposed Division contains the following provisions:

**Proposed clause 41A** defines various words and expressions for the purposes of the proposed Division.

**Proposed clause 41B** provides for the payment of contributions to the Rookwood Necropolis Trust by the various denominational trusts that manage cemeteries within the Rookwood Necropolis. The clause replicates section 20B of the 1901 Act, except that the contributions are in future to be made in relation to the financial year commencing 1 July.

**Proposed clause 41C** requires denominational trusts that operate crematoria in the Rookwood Necropolis to pay fees to the Rookwood Necropolis Trust for each cremation they carry out. The clause replicates section 20G of the 1901 Act.

**Proposed clause 41D** requires denominational trusts that carry out interments or cremations in the Rookwood Necropolis to provide information in that regard to the Rookwood Necropolis Trust. The clause replicates section 20H of the 1901 Act.

##### **Extension of by-law to the Rookwood Necropolis**

**Schedule 2 [3]** amends Part 2 of Schedule 1 so as to apply the *Crown Lands (General Reserves) By-law 2006* to the various cemeteries and crematoria within the Rookwood Necropolis. **Schedule 2 [2]** makes a further amendment consequent on the repeal of the 1901 Act.

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

**Schedule 3.1** amends Schedule 3 to the *Freedom of Information Regulation 2005* so as to remove a reference to the Joint Committee of Necropolis Trustees.

**Schedule 3.2** amends section 19 of the *Land and Environment Court Act 1979* as a consequence of the repeal of the 1901 Act.

**Schedule 3.3** amends rule 3.7 of the *Land and Environment Court Rules 2007* so as to preserve the operation of that rule in relation to proceedings on an appeal under proposed clause 56 of Schedule 8 to the 1989 Act (the proposed successor to section 8E of the 1901 Act).