

CAMPBELLTOWN PRESBYTERIAN CEMETERY BILL, 1984

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are—

- (a) to enable the construction of a road through part of the Campbelltown Presbyterian Cemetery (“the cemetery”) after that part (“the relevant cemetery land”) has been resumed and appropriated under the Main Roads Act, 1924; and
- (b) to ensure that, prior to construction of the road, opportunity is given to relatives or descendants of any person buried in the relevant cemetery land to require that the remains of that person and any associated monument be transferred to another part of the cemetery.

The Bill contains the following provisions:—

Clause 1. Short title.

Clause 2. Interpretation.

Clause 3 specifies the relationship of the provisions of the proposed Act to the Local Government Act, 1919.

Clause 4 authorises the use of the relevant cemetery land otherwise than for the purposes of a cemetery.

Clause 5 requires the Commissioner for Main Roads (“the Commissioner”)—

- (a) to take certain action in regard to the compilation and deposit of a register of persons buried in the relevant cemetery land and to attempt to notify relatives and descendants of any person so buried of the right to request the Commissioner—
 - (i) to reinter the remains of the person elsewhere in the cemetery; and
 - (ii) to remove any associated monument relating to the person to the new burial site;
- (b) to remove the remains and monuments in accordance with any such request made within the prescribed time; and
- (c) to erect a monument in memory of all persons buried or formerly buried in the relevant cemetery land.

Clause 6 requires the removal of certain human remains and monuments from the relevant cemetery land.

Clause 7 provides for the interment in the cemetery of human remains unearthed during construction of the road.

Clause 8 provides that no compensation is payable in respect of certain things effected by or done under the proposed Act.

Clause 9 provides for the settlement of disputes that may arise in regard to the administration of the proposed Act.

Schedule 1 describes the land comprising the cemetery.

Schedule 2 describes the relevant cemetery land.

PROOF

CAMPBELLTOWN PRESBYTERIAN CEMETERY BILL, 1984

No. , 1984.

A BILL FOR

An Act to authorise the use of part of the Campbelltown Presbyterian Cemetery otherwise than for the purposes of a cemetery.

[MR HILLS—22 *February*, 1984.]

Campbelltown Presbyterian Cemetery.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5 Short title.

1. This Act may be cited as the "Campbelltown Presbyterian Cemetery Act, 1984".

Interpretation.

2. (1) In this Act, except in so far as the context or subject-matter
10 otherwise indicates or requires—

"cemetery" means the land described in Schedule 1;

"Commissioner" means the Commissioner for Main Roads;

"monument" means a headstone or other surface structure, or a vault;

"prescribed advertisement" means an advertisement that—

15 (a) is inserted by the Commissioner twice at an interval of not less than 2 weeks in—

(i) a newspaper or newspapers published in and circulating widely throughout the City of Campbelltown; and

20 (ii) a newspaper or newspapers published in Sydney and circulating widely throughout New South Wales; and

(b) gives notice that any relatives or descendants of a person buried in the relevant cemetery land may—

25 (i) before the expiration of 2 months after the last publication of the advertisement in accordance with paragraph (a), request the Commissioner to disinter the remains of the person and reinter those remains in some other part of the cemetery; and

Campbelltown Presbyterian Cemetery.

- 5 (ii) before the expiration of 3 months after the last publication of the advertisement in accordance with paragraph (a), request the Commissioner to remove any monument relating to the person which is situated on the relevant cemetery land;

“relevant cemetery land” means the land described in Schedule 2;

“Trust” means The Presbyterian Church (New South Wales) Property Trust or a body authorised by that corporation to act on its behalf for the purposes of this Act.

- 10 (2) In Schedules 1 and 2, a reference to a Deposited Plan is a reference to a plan filed as a deposited plan in the office of the Registrar-General.

Application of Local Government Act, 1919.

3. The provisions of this Act shall have effect notwithstanding anything contained in the Local Government Act, 1919.

15 Use of cemetery for other purposes.

4. (1) Without limiting the provisions of section 49 of the Main Roads Act, 1924, but subject to this Act, the relevant cemetery land may be resumed and appropriated pursuant to section 49 of that Act, and that land may be used for the purposes of a public road, notwithstanding that, 20 immediately before the commencement of this Act, the relevant cemetery land comprised a cemetery.

(2) On the date on which the relevant cemetery land is resumed and appropriated under section 49 of the Main Roads Act, 1924—

- 25 (a) any estate or interest in the relevant cemetery land which, immediately before that date, was vested in or held by any person or body of persons or the Trust shall be divested;
- 30 (b) any person or body referred to in paragraph (a) and the Trust shall be discharged from any duties, liabilities or obligations existing immediately before that date in respect of the relevant cemetery land;

Campbelltown Presbyterian Cemetery.

(c) any trusts, conditions, encumbrances, dedications or reservations affecting the relevant cemetery land immediately before that date shall be revoked and annulled; and

5 (d) any Crown grants issued in respect of any part of or including any part of the relevant cemetery land and subsisting immediately before that date shall be cancelled in so far as they relate to the relevant cemetery land.

(3) Any person who, immediately before the date on which the relevant cemetery land is resumed and appropriated under section 49 of the
10 Main Roads Act, 1924, was the holder of, or was entitled to be the holder (either at law or in equity) of, any exclusive right to burial within the relevant cemetery land may, within a period of 6 months after that date, apply in writing to the Minister to be granted a fresh exclusive right to burial and the Minister shall, as soon as practicable after any application has been
15 so made, arrange for the provision to that person of a new burial site in a cemetery selected at the discretion of the Minister.

(4) Nothing in this Act should be construed as preventing the relevant cemetery land, after its resumption and appropriation as referred to in subsection (1), from being disposed of or otherwise dealt with in any way
20 that land so resumed and appropriated may be disposed of or otherwise dealt with.

Preconditions to use of cemetery for other purposes.

5. (1) Before taking any action with respect to the resumption and appropriation of the relevant cemetery land and before making or authorising
25 the making of any use of that land for the purposes of a public road, the Commissioner shall—

(a) where a burial register relating to the relevant cemetery land is held or, before the expiration of 3 months after the last publication of the prescribed advertisement, received by the Commissioner and that register is, in the opinion of the Minister, adequate and complete, deposit the burial register at the Mitchell Library, Sydney, where it shall be maintained so as to be available for
30 inspection by any interested person from time to time;

Campbelltown Presbyterian Cemetery.

- (b) where a burial register relating to the relevant cemetery land is held or so received by the Commissioner and that register is not, in the opinion of the Minister, adequate or complete—
- 5 (i) compile a supplementary register of the names of and other relevant information in respect of persons who are buried in the relevant cemetery land, so far as those names and that information can by reasonable diligence be obtained and so far as those names and that information are not included in the burial register; and
- 10 (ii) deposit the burial register and the supplementary register compiled under subparagraph (i) at the Mitchell Library, Sydney, where they shall be maintained so as to be available for inspection by any interested person from time to time;
- (c) cause the prescribed advertisement to be published; and
- 15 (d) cause the removal and reinterment of human remains and the removal of monuments to be carried out in accordance with section 6.

(2) In addition to the duties conferred on the Commissioner under subsection (1), the Commissioner shall, as soon as practicable after the
20 carrying out of those duties, cause to be erected, in a part of the cemetery designated by the Trust, a monument in memory of the persons buried and formerly buried in the relevant cemetery land.

Removal of human remains and monuments.

6. (1) Where any of the relatives or descendants of any person buried
25 in the relevant cemetery land requests the Commissioner—

- (a) before the expiration of 2 months after the last publication of the prescribed advertisement—to disinter the remains of a person buried in the relevant cemetery land and reinter those remains in the cemetery land; or

Campbelltown Presbyterian Cemetery.

- (b) before the expiration of 3 months after the last publication of the prescribed advertisement—to remove any monument relating to a person buried in the relevant cemetery land from that land,

the Commissioner shall—

- 5 (c) after having obtained the permission of the Secretary of the Department of Health so to do, disinter those remains and reverently reinter them in a part of the cemetery nominated by the Trust; or

- (d) remove the monument and—

- 10 (i) where the monument relates to remains reinterred under paragraph (c), place the monument above the part of the cemetery in which those remains are reinterred; or

- (ii) place the monument in a part of the cemetery nominated by the Trust or otherwise dispose of the monument in such manner as the Trust may authorise or direct,

15 as the case may require.

(2) Nothing in subsection (1) prevents the Commissioner from authorising the disinterment of remains or the removal of a monument, other than remains or a monument required to be disinterred or removed under that subsection, and the subsequent—

- 20 (a) reinterment of those remains, or placement of the monument, in a part of the cemetery nominated by the Trust; or

- (b) disposal of the monument in such manner as the Trust may authorise or direct.

Burial of unearthed remains.

- 25 7. All due care shall be taken by any person not to unearth any human remains in converting the relevant cemetery land to use as a public road and the Commissioner shall cause any human remains unearthed to be reverently reinterred in a part of the cemetery nominated by the Trust.

Campbelltown Presbyterian Cemetery.

Compensation.

8. No compensation shall be payable to any person or body of persons in respect of—

- (a) the divesting of any estate or interest by this Act; or
- 5 (b) the performance of any act authorised by this Act.

Disputes between Commissioner and Trust.

9. If any difference arises between the Commissioner and the Trust with respect to the carrying out of any provision of this Act under which it is required that any act shall be performed or thing done in a manner authorised
10 or directed by the Trust, the Commissioner or the Trust may submit the difference to the Minister and the act shall be performed or the thing shall be done in such manner as the Minister directs.

SCHEDULE 1.

(Sec. 2.)

- 15 Land known as the Presbyterian Cemetery, Campbelltown, and being Lot 1, Deposited Plan 596379 situated at Campbelltown in the Parish of St. Peter and County of Cumberland.

SCHEDULE 2.

(Sec. 2.)

- 20 ALL THAT piece or parcel of land situated in the City of Campbelltown, Parish of St. Peter and County of Cumberland, being part of Lot 1, Deposited Plan 596379 and being also part of the land in Certificate of Title Volume 13658 Folio 16 commencing at the intersection of the north western side of Moore Street with the north eastern side of Broughton Street and bounded on the south west by part of that side
25 of Broughton Street bearing 314 degrees 37 minutes 30 seconds 11.87 metres thence on the north by a line bearing 89 degrees 32 minutes 4.235 metres thence on the north west by a line bearing 44 degrees 26 minutes 10 seconds 99.41 metres to the south western boundary of land in Ms 10566Sy thence on the north east by part of that

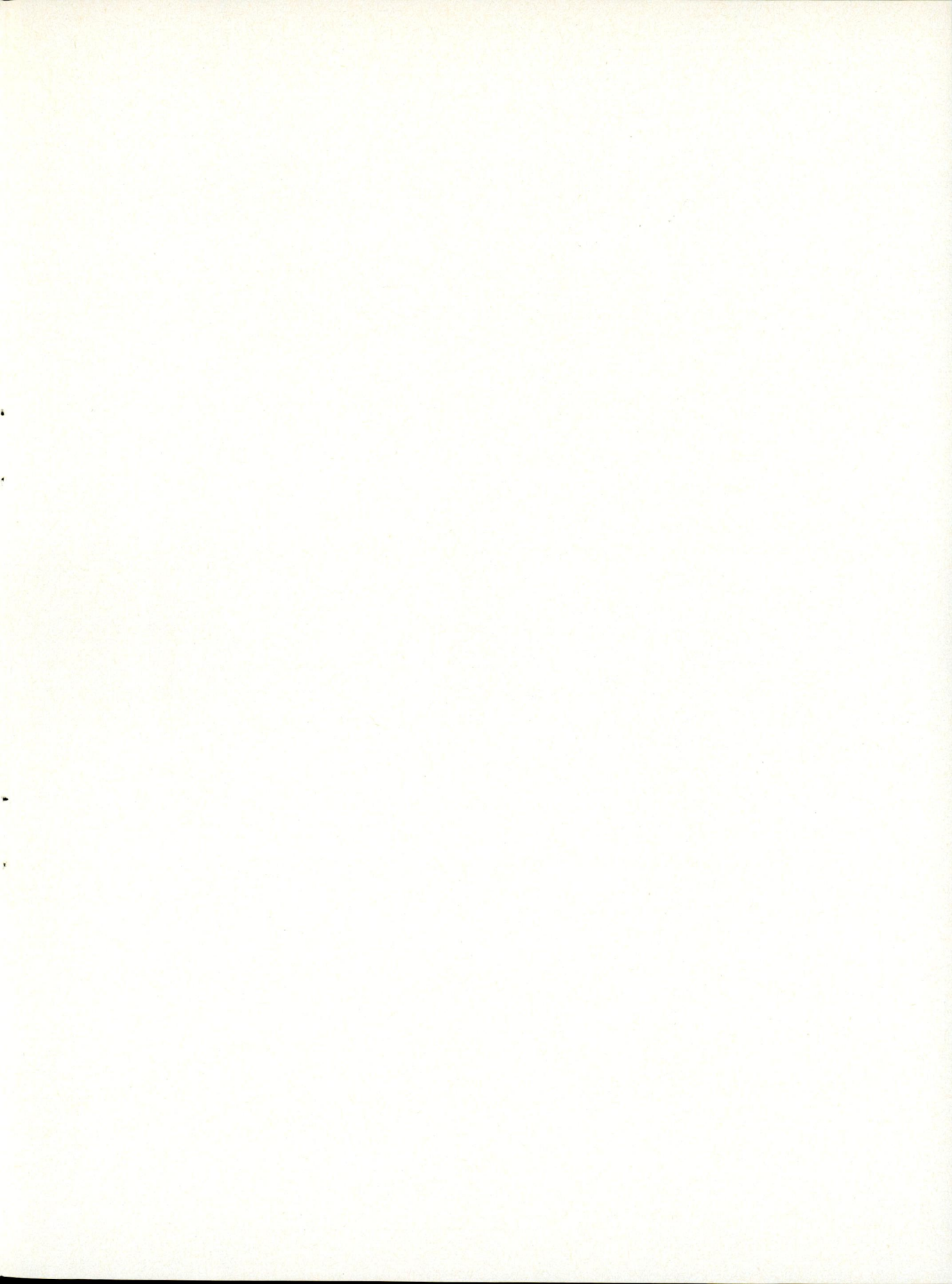
Campbelltown Presbyterian Cemetery.

SCHEDULE 2—*continued.*

boundary bearing 134 degrees 21 minutes 3.045 metres and 134 degrees 09 minutes 8.84 metres to the aforesaid north western side of Moore Street thence on the south east by part of that side of that Street bearing 226 degrees 07 minutes 20 seconds 5 102.53 metres to the point of commencement containing an area of 1 067 square metres be the said several dimensions all a little more or less and shown on Surveyors Foil registered in the Department of Main Roads as Foil No. 0177.076.FP.0267.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1984





CONCURRENCE COPY

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- (a) to take certain action in regard to the compilation and deposit of a register of persons buried in the relevant cemetery land and to attempt to notify relatives and descendants of any person so buried of the right to request the Commissioner—
 - (i) to reinter the remains of the person elsewhere in the cemetery; and
 - (ii) to remove any associated monument relating to the person to the new burial site;
- (b) to remove the remains and monuments in accordance with any such request made within the prescribed time; and
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Clause 7 provides for the interment in the cemetery of human remains unearthed during construction of the road.

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Campbelltown Presbyterian Cemetery.

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Foil registered in the Department of Main Roads as Foil No. 0177.076.FP.0267.

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D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1984

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