



New South Wales

# Catholic Cemeteries and Crematoria Trust Bill 2024

## Explanatory note

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

## Overview of Bill

The objects of this Bill are as follows—

- (a) to deal with matters arising from the decision in *Catholic Metropolitan Cemeteries Trust v Attorney General of New South Wales* [2024] NSWCA 30,
- (b) to make consequential amendments to the *Crown Land Management Act 2016*.

## Outline of provisions

### Part 1 Preliminary

**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.

**Clause 3** defines certain words and expressions used in the proposed Act, including the following—

- (a) **CCC**, which means Catholic Cemeteries and Crematoria Limited, ACN 638 153 689,
- (b) **CCC land**, which means certain land, other than land that has been divested, gifted or otherwise transferred from the Crown estate,
- (c) **CCC Trust**, which means the equitable trust referred to in the decision in *Catholic Metropolitan Cemeteries Trust v Attorney General of New South Wales* [2024] NSWCA 30.

## **Part 2 CCC, CCC Trust and CCC Lands**

**Clause 4** provides that land managed or operated by the Catholic Metropolitan Cemeteries Trust (*CMCT*) immediately before 30 June 2024, as described in Schedule 1 of the proposed Act (*existing CMCT land*), is vested in the Crown free of any other interest, including equitable interests. No duty is payable in relation to the vesting of land in the Crown.

**Clause 5** provides that assets, rights and liabilities of *CMCT* immediately before 30 June 2024 are to be transferred to CCC as Trustee of the CCC Trust.

**Clause 6** modifies the charitable purpose of the CCC Trust and sets out the arrangements for the management of CCC land and CCC land jointly managed under the *Crown Land Management Act 2016*.

**Clause 7** sets out the Trustee of the CCC Trust.

**Clause 8** provides that the CCC Trust is subject to the *Charitable Trusts Act 1993*.

**Clause 9** allows the Trustee of the CCC Trust, with the consent of the Minister of Lands and Property, to use trust property to acquire new land in certain circumstances, and sets out the effect of the acquisition of the land.

## **Part 3 Miscellaneous**

**Clause 10** provides that the setting apart of Lot 6, DP 1140277 for use in connection with a crematorium is revoked.

**Clause 11** provides that no compensation is payable arising from the enactment or operation of the proposed Act, or for a certain disbursement or other action by the Trustee of the CCC Trust in relation to trust property.

**Clause 12** provides that the Governor may make regulations about certain matters.

## **Schedule 1 Existing CMCT Land**

Schedule 1 contains details and maps of existing *CMCT* land.

## **Schedule 2 Savings, transitional and other provisions**

Schedule 2 contains savings, transitional and other provisions consequent on the enactment of the proposed Act.

## **Schedule 3 Amendment of the Crown Land Management Act 2016 No 58**

Schedule 3 makes amendments to the *Crown Land Management Act 2016* to provide that any equitable interests or trusts for charitable purposes existing in land that, immediately before the commencement of the proposed Act, was used as a cemetery managed by Metropolitan Memorial Parks Land Manager, or in proceeds or other property arising from the use of the land for that purpose, are extinguished.



New South Wales

# Catholic Cemeteries and Crematoria Trust Bill 2024

## Contents

		Page
<b>Part 1</b>	<b>Preliminary</b>	
	1 Name of Act	2
	2 Commencement	2
	3 Definitions	2
<b>Part 2</b>	<b>CCC, CCC Trust and CCC lands</b>	
	4 Ownership of existing CMCT land	3
	5 Ownership of existing equitable trust property	3
	6 Modification of charitable purpose of CCC Trust	3
	7 Trustee of CCC Trust	4
	8 Operation and enforcement of CCC Trust	4
	9 Acquisition of additional CCC land	4
<b>Part 3</b>	<b>Miscellaneous</b>	
	10 Special provision for InvoCare site	5
	11 No compensation payable	5
	12 Regulations	5
<b>Schedule 1</b>	<b>Existing CMCT land</b>	<b>6</b>
<b>Schedule 2</b>	<b>Savings, transitional and other provisions</b>	<b>13</b>
<b>Schedule 3</b>	<b>Amendment of Crown Land Management Act 2016 No 58</b>	<b>15</b>

*This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly*

*Clerk of the Legislative Assembly*



New South Wales

## **Catholic Cemeteries and Crematoria Trust Bill 2024**

No           , 2024

---

### **A Bill for**

An Act to provide for matters in relation to the Catholic Cemeteries and Crematoria Trust; to amend the *Crown Land Management Act 2016* in relation to cemeteries; and for related purposes.

---

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with/without amendment.*

*Legislative Council*

*Clerk of the Parliaments*

---

**Tabling copy**



The Legislature of New South Wales enacts—

1

## Part 1 Preliminary

2

### 1 Name of Act

3

This Act is the *Catholic Cemeteries and Crematoria Trust Act 2024*.

4

### 2 Commencement

5

This Act commences on 30 June 2024.

6

### 3 Definitions

7

In this Act—

8

**additional CCC land** means land acquired in accordance with section 9.

9

**CCC** means Catholic Cemeteries and Crematoria Limited, ACN 638 153 689.

10

**CCC land** means the following land, other than land that has been divested, gifted or otherwise transferred from the Crown estate—

11

(a) existing CMCT land,

12

(b) additional CCC land,

13

(c) land in relation to which the functions of a Crown land manager have been delegated to the Trustee of the CCC Trust under the *Crown Land Management Act 2016*.

14

15

16

17

**CCC Trust** means the equitable trust referred to in the decision in *Catholic Metropolitan Cemeteries Trust v Attorney General of New South Wales* [2024] NSWCA 30.

18

19

20

**cemetery** has the same meaning as in the *Cemeteries and Crematoria Act 2013*.

21

**CMCT** means the Catholic Metropolitan Cemeteries Trust.

22

**existing CMCT land** means land described in Schedule 1.

23

**Note—** The land described in Schedule 1 is land that was managed or operated by CMCT immediately before 30 June 2024.

24

25

**Note—** The *Interpretation Act 1987* also contains definitions and other provisions that affect the interpretation and application of this Act.

26

27

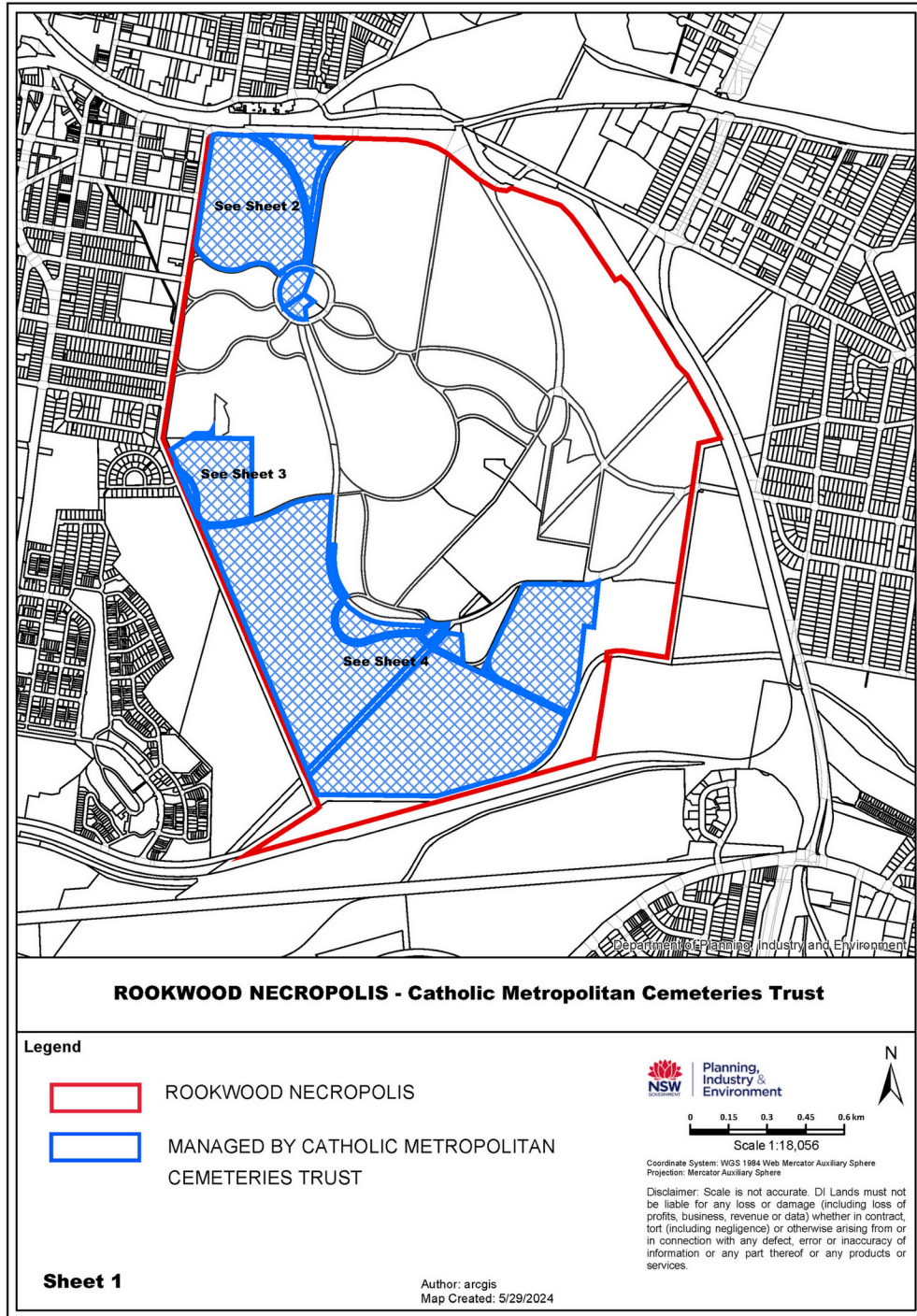
<b>Part 2</b>	<b>CCC, CCC Trust and CCC lands</b>	1
<b>4</b>	<b>Ownership of existing CMCT land</b>	2
(1)	The existing CMCT land is vested in the Crown free of any other interest, including equitable interests, whether the interests were created by statute law, the common law or otherwise.	3 4 5
(2)	No duty is payable in relation to the vesting of land in the Crown under subsection (1).	6 7
<b>5</b>	<b>Ownership of existing equitable trust property</b>	8
(1)	All assets, rights and liabilities of CMCT immediately before 30 June 2024, other than the existing CMCT land, are transferred to CCC as Trustee of the CCC Trust.	9 10
(2)	No duty is payable in relation to the transfer of property under subsection (1).	11
<b>6</b>	<b>Modification of charitable purpose of CCC Trust</b>	12
(1)	The charitable purpose of the CCC Trust is modified as follows—	13
(a)	the burial or cremation, or other interment or disposal, by the Roman Catholic denomination, of the remains of the dead of the Catholic faith, another faith or no faith on cemeteries situated on CCC land, including the following—	14 15 16
(i)	the control, operation and management of cemeteries, including the general and perpetual care and maintenance of cemeteries,	17 18
(ii)	the consecration and blessing of land in connection with the blessing of the dead,	19 20
(iii)	the erection and maintenance of chapels and other sacred spaces,	21
(iv)	the provision of funerary services,	22
(v)	the acquisition of new land for, or establishment of, new cemeteries or improvements to cemeteries, including the erection of structures on land for use by 1 or more faith groups or persons of no faith,	23 24 25
(vi)	the conduct of—	26
(A)	Catholic religious masses, or	27
(B)	ceremonies for other faiths or persons of no faith,	28
(vii)	the administration of sacraments and funeral rites to persons approaching death or grieving the dead,	29 30
(viii)	the carrying out of corporal works of mercy, or rites recognised by other faiths, in connection with the dead,	31 32
(b)	other matters that are—	33
(i)	incidental or ancillary to the purpose for which the land is reserved under the <i>Crown Land Management Act 2016</i> , and	34 35
(ii)	complementary to the public use of Crown land.	36
(2)	Subject to subsections (3)–(5), assets, rights and liabilities derived from the care, control, management and administration of, and dealings with, CCC land and other property of the CCC Trust are vested in the CCC Trust.	37 38 39
(3)	Proceeds arising from the divestment of Crown land under the <i>Crown Land Management Act 2016</i> that, immediately before its divestment, was CCC land are not vested in the CCC Trust.	40 41 42
(4)	If the CCC Trust is no longer associated with the management of CCC land, proceeds arising from the care, control, management and administration of the land do not form part of the CCC Trust.	43 44 45

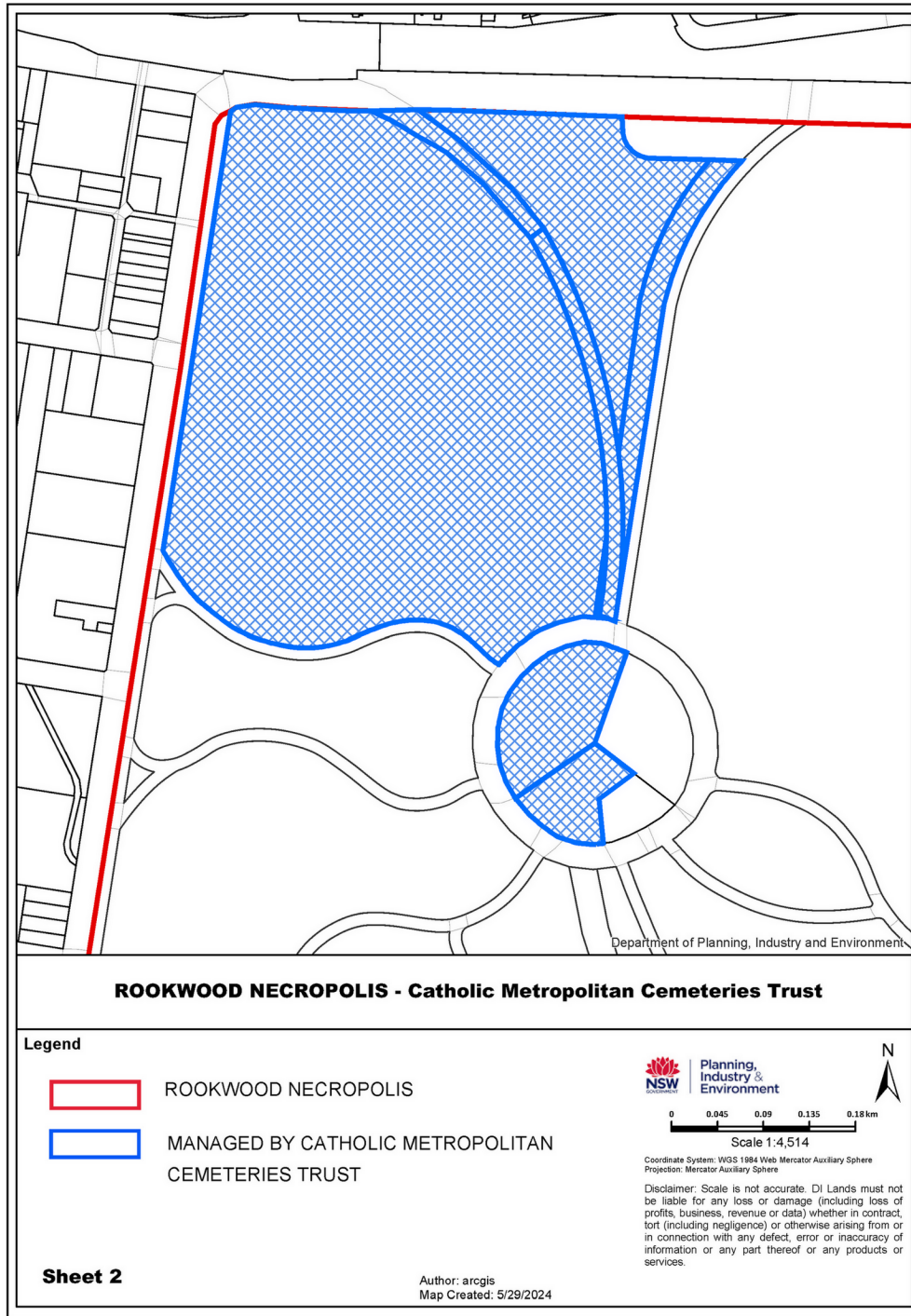
(5)	Despite subsection (2), for CCC land that is jointly managed under the <i>Crown Land Management Act 2016</i> , arrangements for the distribution of assets, rights and liabilities derived from the care, control, management and administration of, and dealings with, the land will be—	1 2 3 4
(a)	as agreed in writing between the relevant joint Crown land managers, or	5
(b)	in the absence of an agreement—as directed by the Minister.	6
(6)	To avoid doubt, words used in the charitable purpose of the trust, as modified by subsection (1), that are also used in this Act have the same meaning as in this Act.	7 8
<b>7</b>	<b>Trustee of CCC Trust</b>	9
	The Trustee of the CCC Trust is—	10
(a)	the CCC, or	11
(b)	if the CCC ceases to be the Trustee of the CCC Trust—another person appointed under the <i>Charitable Trusts Act 1993</i> , or another Act or law governing the CCC Trust.	12 13 14
<b>8</b>	<b>Operation and enforcement of CCC Trust</b>	15
	To avoid doubt, the operation and enforcement of the CCC Trust is subject to the <i>Charitable Trusts Act 1993</i> .	16 17
<b>9</b>	<b>Acquisition of additional CCC land</b>	18
(1)	The Trustee of the CCC Trust may use trust property to acquire new land only if—	19
(a)	the land is acquired for a trust purpose, and	20
(b)	the instrument providing for the acquisition of the land provides for—	21
(i)	the land to be transferred to the Crown without compensation, and	22
(ii)	the land to become CCC land immediately on acquisition, and	23
(c)	the Minister consents to paragraph (b)(i) and (ii).	24
(2)	The land is taken to be transferred to the Crown in accordance with the instrument that provides for the acquisition of the land.	25 26
(3)	When the land is transferred under subsection (2), any equitable interest in the land is extinguished.	27 28
(4)	The Trustee of the CCC Trust may exercise the Trustee’s functions in relation to land acquired under subsection (1) in accordance with the CCC Trust, whether or not the land has become Crown land.	29 30 31
(5)	As soon as practicable after the land becomes Crown land, the land must be reserved for a public purpose under the <i>Crown Land Management Act 2016</i> .	32 33

<b>Part 3</b>	<b>Miscellaneous</b>	1
<b>10</b>	<b>Special provision for InvoCare site</b>	2
(1)	This section applies to the InvoCare site.	3
(2)	The setting apart of the InvoCare site, by a proclamation made under the repealed <i>Rookwood Necropolis Act 1901</i> , section 8A, for use in connection with a crematorium is revoked.	4 5 6
(3)	In this section— <i>InvoCare site</i> means Lot 6, DP 1140277.	7 8
<b>11</b>	<b>No compensation payable</b>	9
(1)	No compensation is payable arising from the enactment, or operation, of this Act.	10
(2)	Without limiting subsection (1), no compensation is payable in relation to any of the following arising from the enactment, or operation, of this Act—	11 12
(a)	the vesting of land in the Crown,	13
(b)	the extinguishment of interests, including equitable interests,	14
(c)	the vesting of property in a Crown land manager.	15
(3)	In addition, no compensation is payable for a disbursement or other action by the Trustee of the CCC Trust in relation to trust property if the disbursement or other action is permitted under the CCC Trust in accordance with this Act.	16 17 18
<b>12</b>	<b>Regulations</b>	19
	The Governor may make regulations about the following matters—	20
(a)	a matter that is required or permitted to be prescribed by this Act,	21
(b)	a matter that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	22 23

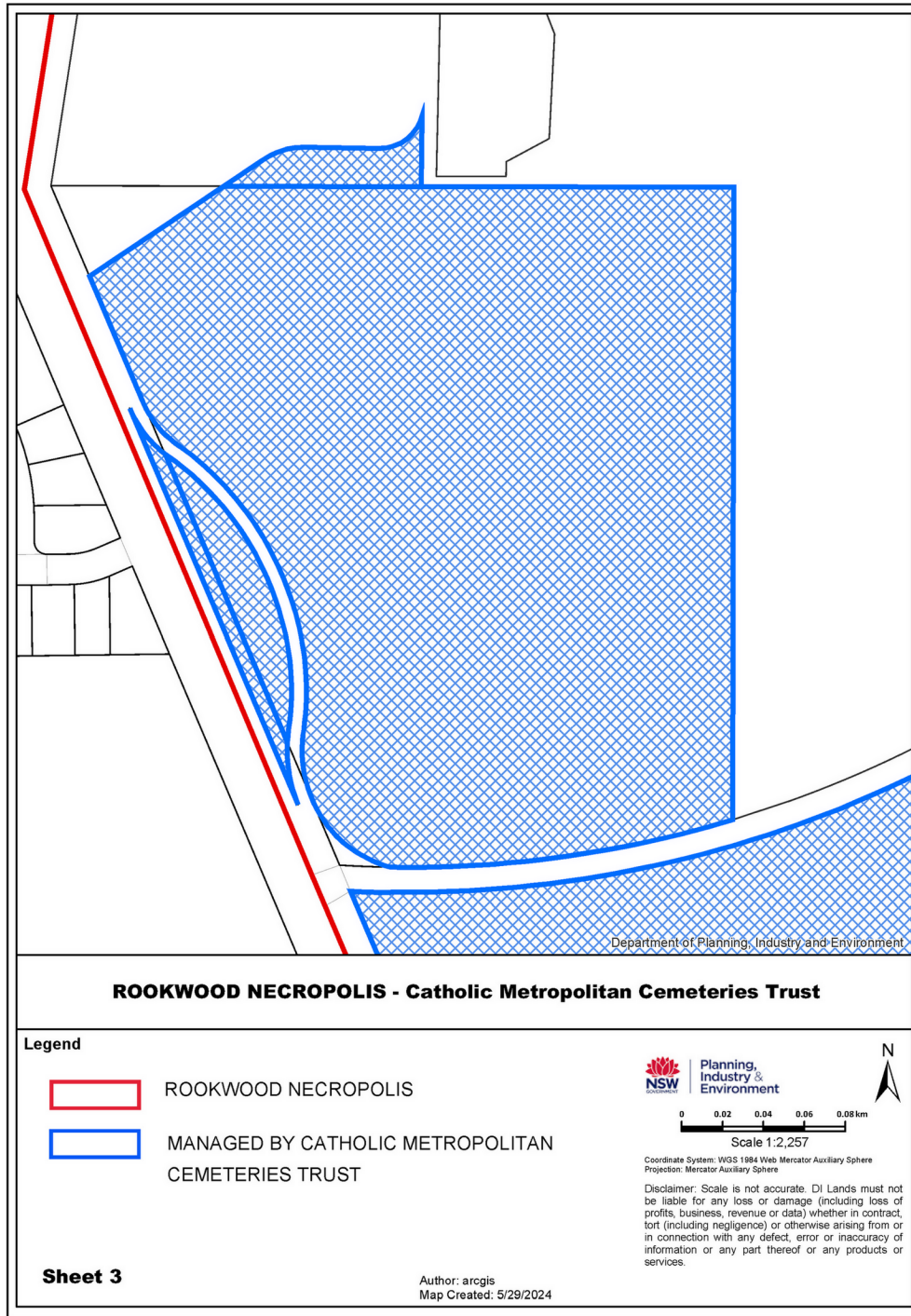
<b>Schedule 1</b>	<b>Existing CMCT land</b>	1
	section 3, definition of “existing CMCT land”	2
<b>Kemps Creek</b>		3
100/1210132		4
<b>Liverpool</b>		5
16/40453		6
11/914825		7
7030/1059048		8
14/914823		9
7/914824		10
444/822281		11
7044/1045353		12
443/822281		13
17/40453		14
11/914822		15
425/48284		16
7048/1059854		17
8/914824		18
6/914824		19
5/914824		20
4/914824		21
12/914825		22
7047/1059854		23
445/822281		24
<b>Macarthur Memorial Park, Varroville</b>		25
B/370979		26
22/564065		27
1/ 218016 (Subfolio 1/218016A & Subfolio 1/218016B)		28
<b>Nepean Gardens Memorial Park, Wallacia</b>		29
3/18701 (Auto Consol 5645-56)		30
4/18701 (Auto Consol 5645-56)		31
1/1254545		32
2/1254545		33

## Rookwood

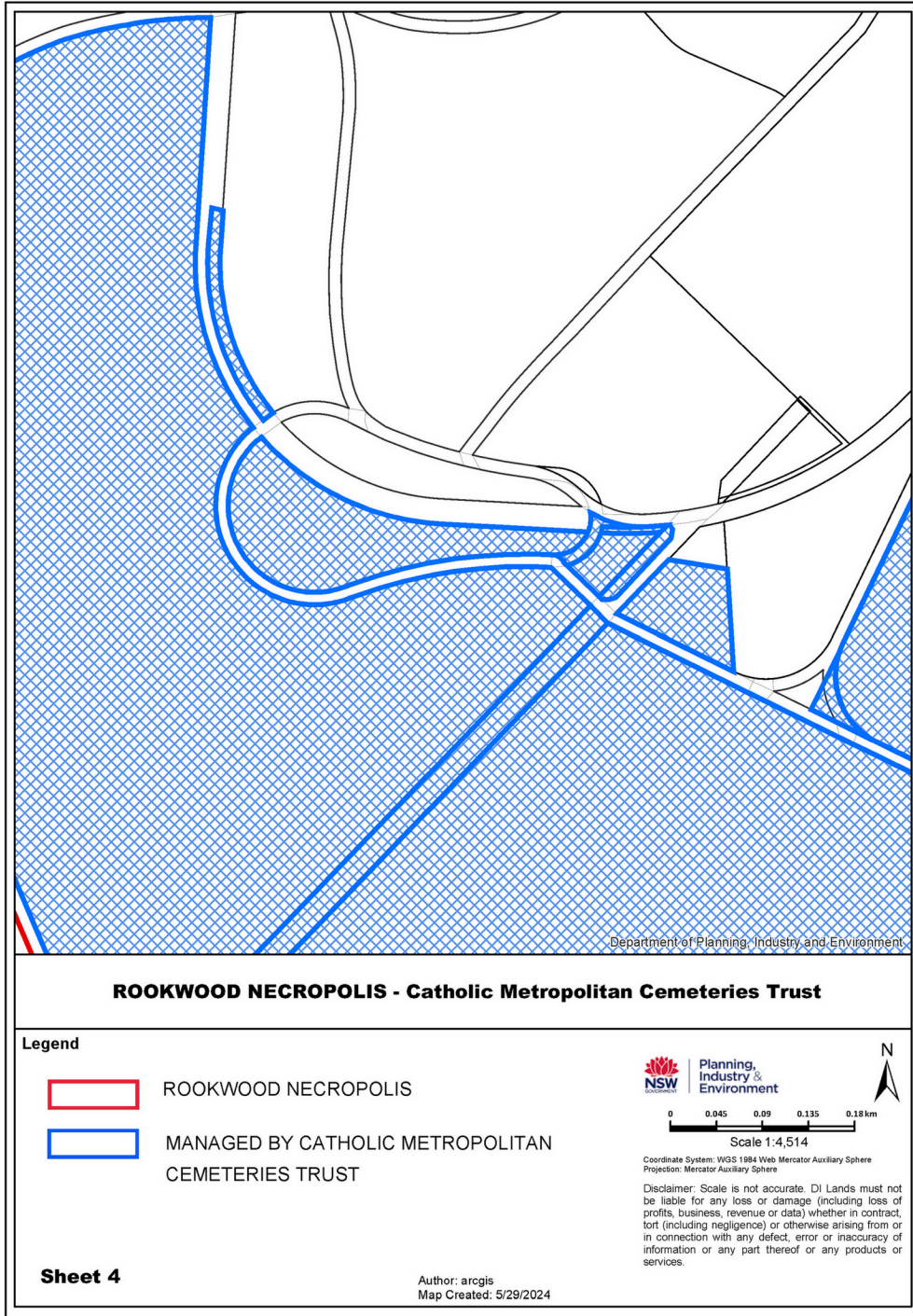




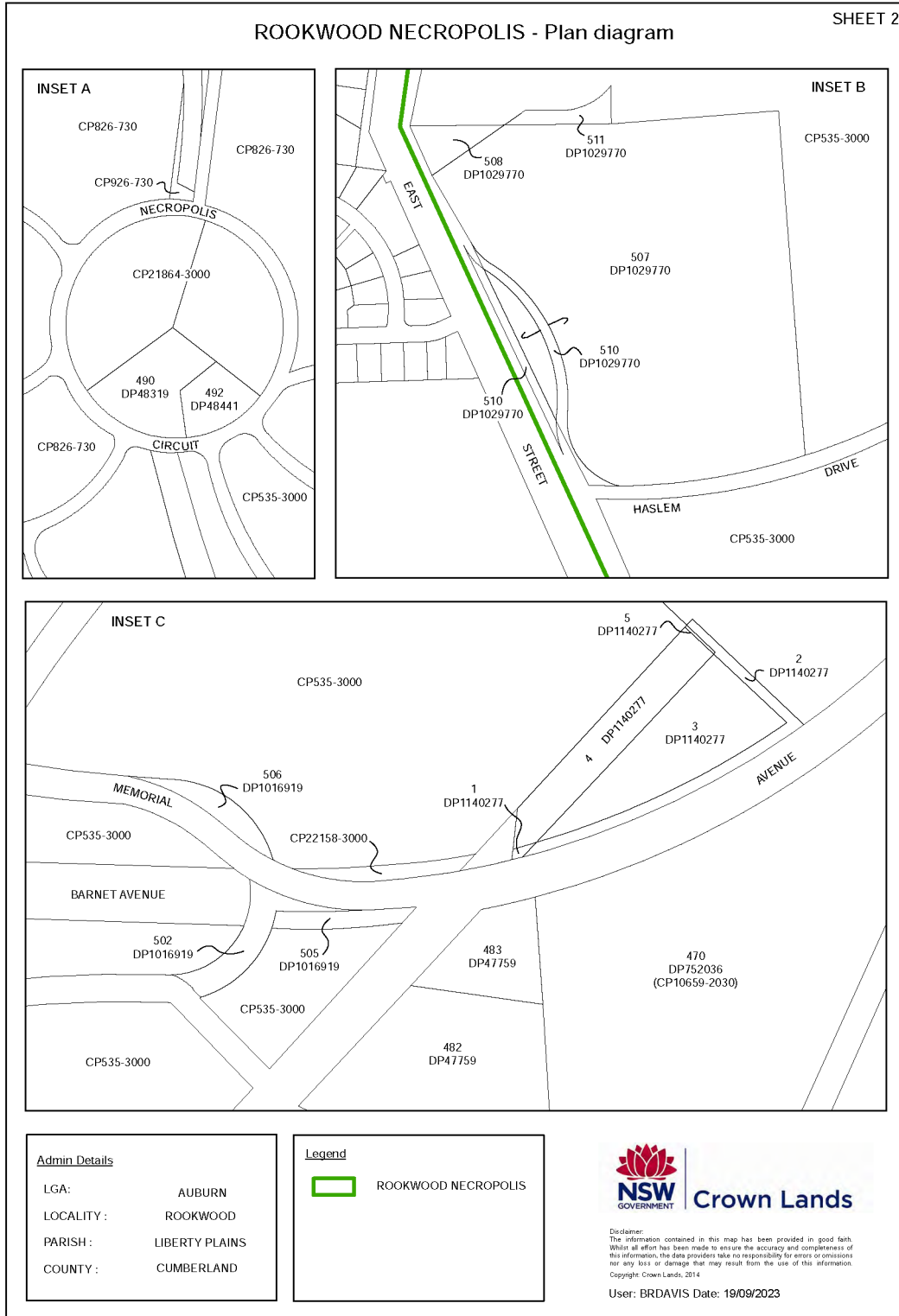












<b>Schedule 2</b>	<b>Savings, transitional and other provisions</b>	1
<b>1</b>	<b>Regulations</b>	2
(1)	The regulations may contain provisions of a savings or transitional nature consequent on the commencement of—	3
	(a) a provision of this Act, or	4
	(b) a provision amending this Act.	5
(2)	A savings or transitional provision consequent on the commencement of a provision must not be made more than 2 years after the commencement.	6
(3)	A savings or transitional provision made consequent on the commencement of a provision is repealed 2 years after the commencement.	7
(4)	A savings or transitional provision made consequent on the commencement of a provision may take effect before the commencement but not before—	8
	(a) for a provision of this Act—the date of assent to this Act, or	9
	(b) for a provision amending this Act—the date of assent to the amending Act.	10
(5)	A savings or transitional provision taking effect before its publication on the NSW legislation website does not—	11
	(a) affect the rights of a person existing before the publication in a way prejudicial to the person, or	12
	(b) impose liabilities on a person for anything done or omitted to be done before the publication.	13
(6)	In this section—	14
	<i>person</i> does not include the State or an authority of the State.	15
<b>2</b>	<b>Validation of certain disbursements and actions</b>	16
(1)	This section applies if—	17
	(a) before the commencement, a disbursement was made or other action was taken by the Trustee of the CCC in relation to trust property, and	18
	(b) from the commencement, the disbursement or other action would be permitted under the CCC Trust in accordance with this Act.	19
(2)	The disbursement or other action is taken to have been validly made or taken as if the disbursement had been made or action had been taken after the commencement.	20
(3)	In this section—	21
	<i>commencement</i> means the commencement of this section.	22
<b>3</b>	<b>Validation of certain disbursements and actions of Metropolitan Memorial Parks Land Manager</b>	23
(1)	This section applies if—	24
	(a) before the commencement, the Metropolitan Memorial Parks Land Manager made a disbursement or took other action in relation to trust property, and	25
	(b) the disbursement or other action was undertaken in connection with the operation of a cemetery on land in relation to which the trust existed, or another cemetery operated by the trustee.	26
(2)	The disbursement or other action is taken to have been validly made or taken.	27
(3)	In this section—	28
	<i>commencement</i> means the commencement of this section.	29

***Metropolitan Memorial Parks Land Manager*** means the land manager of that name constituted under the *Crown Land Management Act 2016*.

1  
2

<b>Schedule 3</b>	<b>Amendment of Crown Land Management Act 2016 No 58</b>	1
		2
<b>Schedule 7 Savings, transitional and other provisions</b>		3
Insert after clause 51—		4
<b>Part 4</b>	<b>Provision consequent on enactment of Catholic Cemeteries and Crematoria Trust Act 2024</b>	5
		6
<b>52</b>	<b>Crown reserve used for cemeteries</b>	7
(1)	This clause applies to—	8
(a)	land that, immediately before the commencement, was used as a cemetery managed by the Metropolitan Memorial Parks Land Manager, and	9 10 11
(b)	any proceeds or other property arising from the use of the land referred to in paragraph (a) as a cemetery that, immediately before the commencement, were subject to any equitable interests or trusts for charitable purposes.	12 13 14 15
(2)	From the commencement—	16
(a)	any equitable interests or trusts for charitable purposes existing in or arising from the use of the land as a cemetery are extinguished, including any equitable interests or trusts in the proceeds or other property arising from the use of the land, and	17 18 19 20
(b)	land that, immediately before the commencement, was subject to a charitable trust referred to in paragraph (a) is vested in the Crown as a Crown reserve for the purpose of a cemetery, and	21 22 23
(c)	the Crown land manager for the land is the person who, immediately before the commencement, held the land, and	24 25
(d)	proceeds or other property arising from the use of the land that, immediately before the commencement, were subject to a charitable trust, are vested in the Crown land manager for the land in the manager's capacity as Crown land manager.	26 27 28 29
(3)	No equitable interest is created in Crown land merely because of the use of the Crown land as a cemetery in accordance with this Act.	30 31
(4)	This clause does not apply in relation to the CCC Trust within the meaning of the <i>Catholic Cemeteries and Crematoria Trust Act 2024</i> .	32 33
(5)	In this clause—	34
	<b>commencement</b> means the commencement of this section.	35
	<b>Metropolitan Memorial Parks Land Manager</b> means the land manager of that name constituted under this Act.	36 37