



New South Wales

Catholic Cemeteries and Crematoria Trust Bill 2024

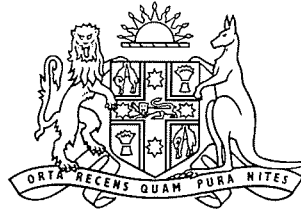
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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2024



New South Wales

Catholic Cemeteries and Crematoria Trust Bill 2024

Act No _____, 2024

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.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts—

Part 1 Preliminary

1 Name of Act

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

2 Commencement

This Act commences on 30 June 2024.

3 Definitions

In this Act—

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

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

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

- (a) existing CMCT land,
- (b) additional CCC land,
- (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*.

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.

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

CMCT means the Catholic Metropolitan Cemeteries Trust.

existing CMCT land means land described in Schedule 1.

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

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

Part 2 CCC, CCC Trust and CCC lands

4 Ownership of existing CMCT land

- (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.
- (2) No duty is payable in relation to the vesting of land in the Crown under subsection (1).

5 Ownership of existing equitable trust property

- (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.
- (2) No duty is payable in relation to the transfer of property under subsection (1).

6 Modification of charitable purpose of CCC Trust

- (1) The charitable purpose of the CCC Trust is modified as follows—
 - (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—
 - (i) the control, operation and management of cemeteries, including the general and perpetual care and maintenance of cemeteries,
 - (ii) the consecration and blessing of land in connection with the blessing of the dead,
 - (iii) the erection and maintenance of chapels and other sacred spaces,
 - (iv) the provision of funerary services,
 - (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,
 - (vi) the conduct of—
 - (A) Catholic religious masses, or
 - (B) ceremonies for other faiths or persons of no faith,
 - (vii) the administration of sacraments and funeral rites to persons approaching death or grieving the dead,
 - (viii) the carrying out of corporal works of mercy, or rites recognised by other faiths, in connection with the dead,
 - (b) other matters that are—
 - (i) incidental or ancillary to the purpose for which the land is reserved under the *Crown Land Management Act 2016*, and
 - (ii) complementary to the public use of Crown land.
- (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.
- (3) Proceeds arising from the divestment of Crown land under the *Crown Land Management Act 2016* that, immediately before its divestment, was CCC land are not vested in the CCC Trust.
- (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.

- (5) Despite subsection (2), for CCC land that is jointly managed under the *Crown Land Management Act 2016*, 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—
 - (a) as agreed in writing between the relevant joint Crown land managers, or
 - (b) in the absence of an agreement—as directed by the Minister.
- (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 Trustee of CCC Trust

The Trustee of the CCC Trust is—

- (a) the CCC, or
- (b) if the CCC ceases to be the Trustee of the CCC Trust—another person appointed under the *Charitable Trusts Act 1993*, or another Act or law governing the CCC Trust.

8 Operation and enforcement of CCC Trust

To avoid doubt, the operation and enforcement of the CCC Trust is subject to the *Charitable Trusts Act 1993*.

9 Acquisition of additional CCC land

- (1) The Trustee of the CCC Trust may use trust property to acquire new land only if—
 - (a) the land is acquired for a trust purpose, and
 - (b) the instrument providing for the acquisition of the land provides for—
 - (i) the land to be transferred to the Crown without compensation, and
 - (ii) the land to become CCC land immediately on acquisition, and
 - (c) the Minister consents to paragraph (b)(i) and (ii).
- (2) The land is taken to be transferred to the Crown in accordance with the instrument that provides for the acquisition of the land.
- (3) When the land is transferred under subsection (2), any equitable interest in the land is extinguished.
- (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.
- (5) As soon as practicable after the land becomes Crown land, the land must be reserved for a public purpose under the *Crown Land Management Act 2016*.

Part 3 Miscellaneous

10 Special provision for InvoCare site

- (1) This section applies to the InvoCare site.
- (2) The setting apart of the InvoCare site, by a proclamation made under the repealed *Rookwood Necropolis Act 1901*, section 8A, for use in connection with a crematorium is revoked.
- (3) In this section—
InvoCare site means Lot 6, DP 1140277.

11 No compensation payable

- (1) No compensation is payable arising from the enactment, or operation, of this Act.
- (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—
 - (a) the vesting of land in the Crown,
 - (b) the extinguishment of interests, including equitable interests,
 - (c) the vesting of property in a Crown land manager.
- (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.

12 Regulations

The Governor may make regulations about the following matters—

- (a) a matter that is required or permitted to be prescribed by this Act,
- (b) a matter that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Schedule 1 Existing CMCT land

section 3, definition of "existing CMCT land"

Kemps Creek

100/1210132

10/713582

Liverpool

16/40453

11/914825

7030/1059048

14/914823

7/914824

444/822281

7044/1045353

443/822281

17/40453

11/914822

425/48284

7048/1059854

8/914824

6/914824

5/914824

4/914824

12/914825

7047/1059854

445/822281

Macarthur Memorial Park, Varroville

B/370979

22/564065

1/ 218016 (Subfolio 1/218016A & Subfolio 1/218016B)

Nepean Gardens Memorial Park, Wallacia

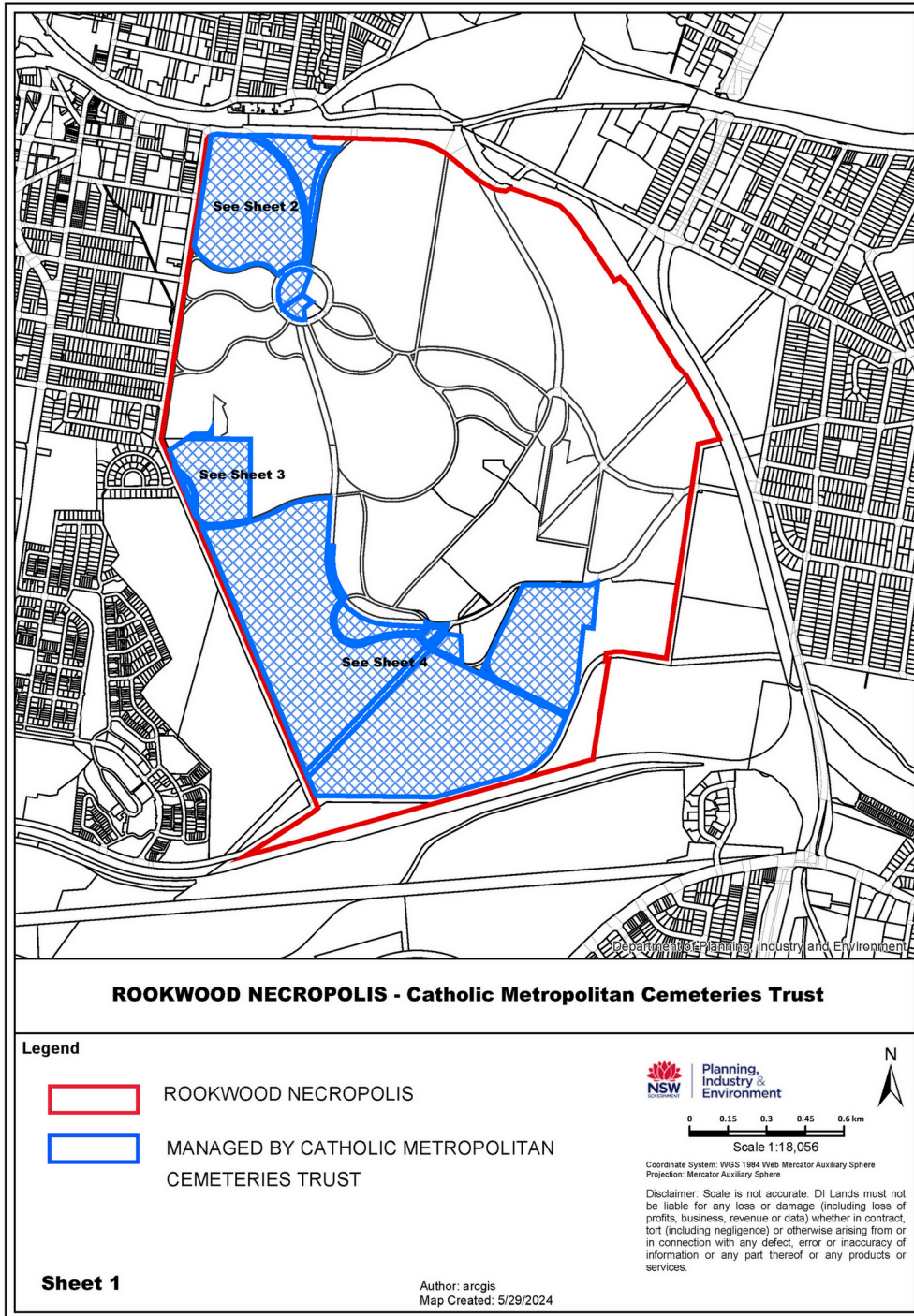
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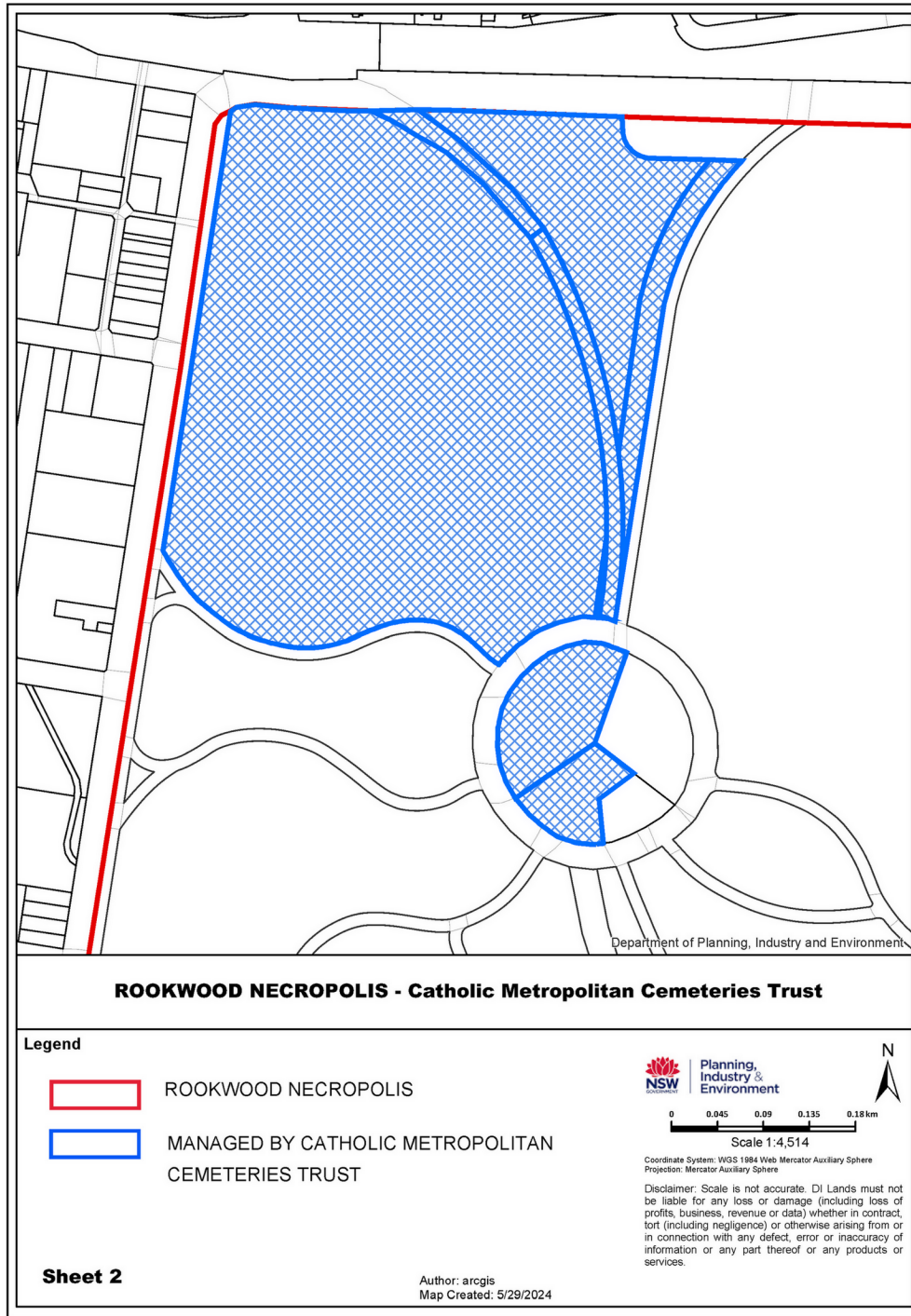
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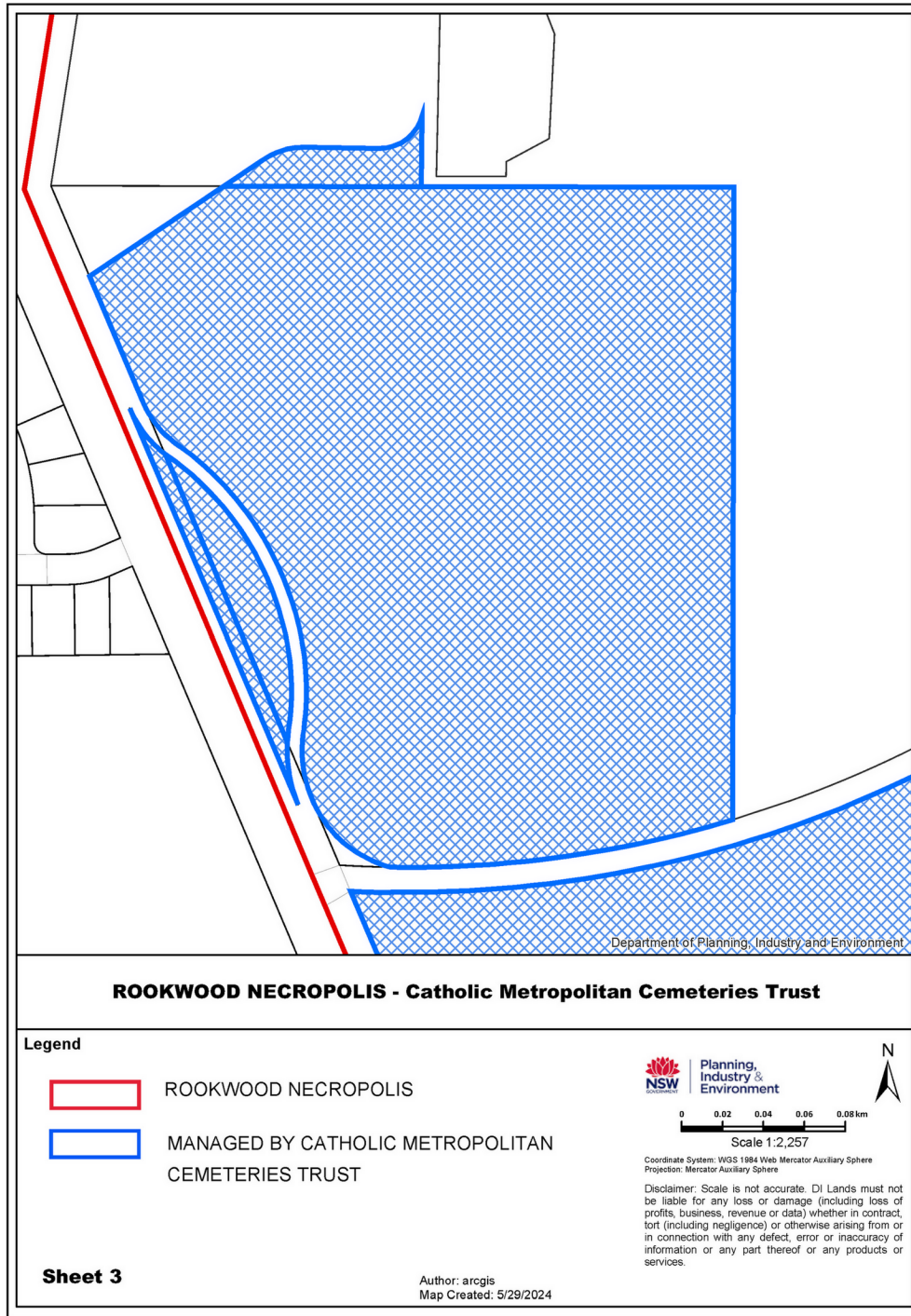
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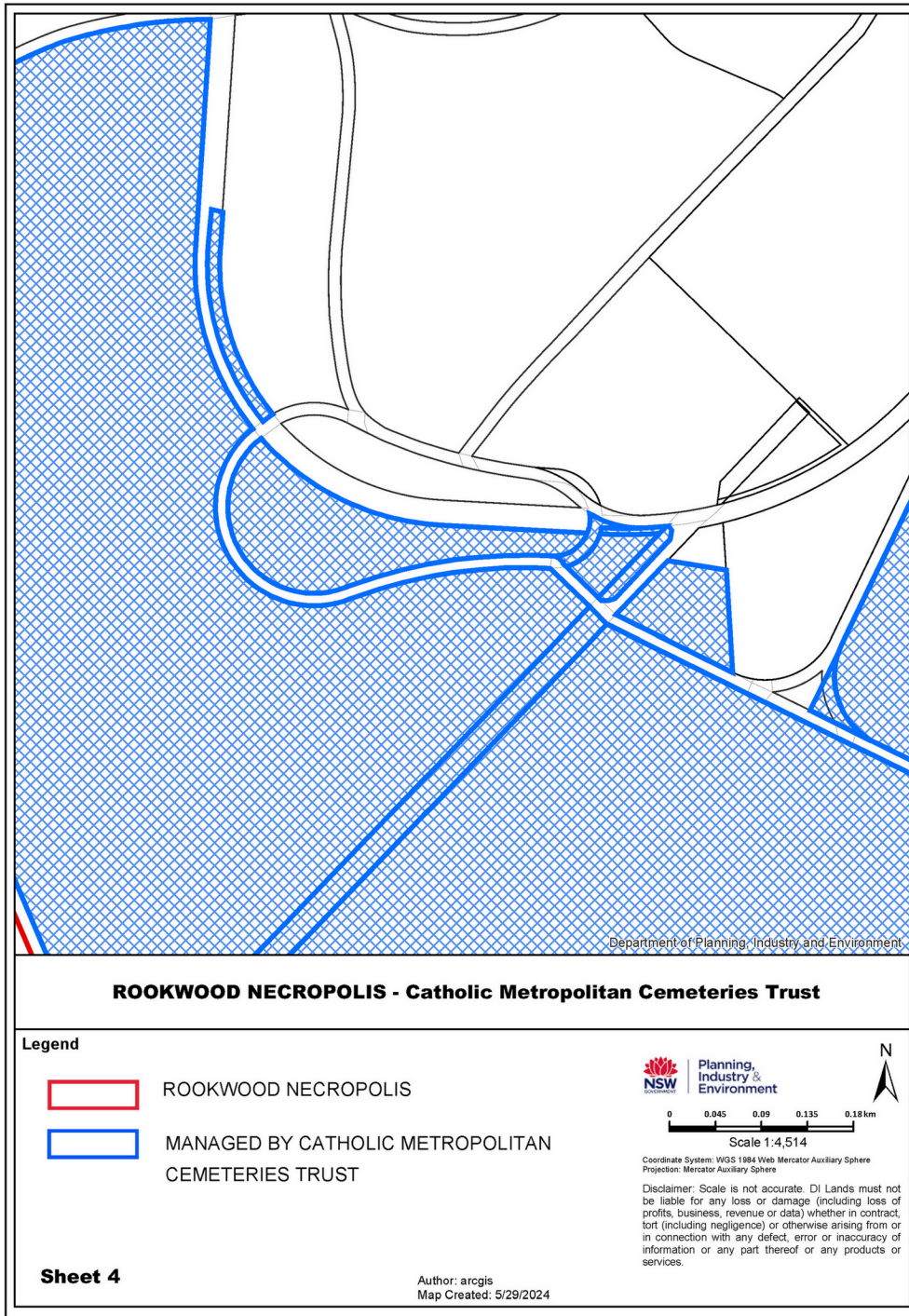
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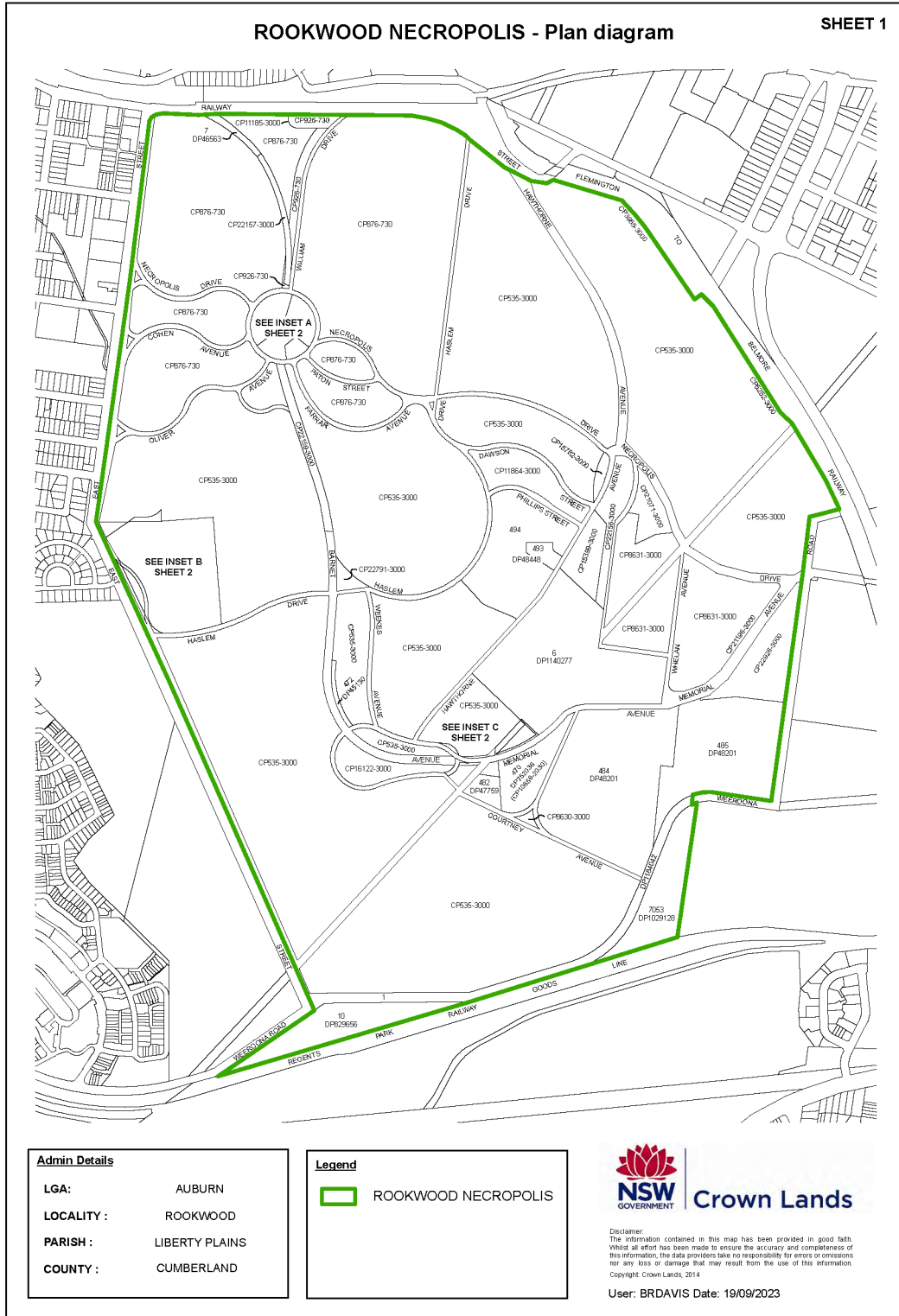
Rookwood

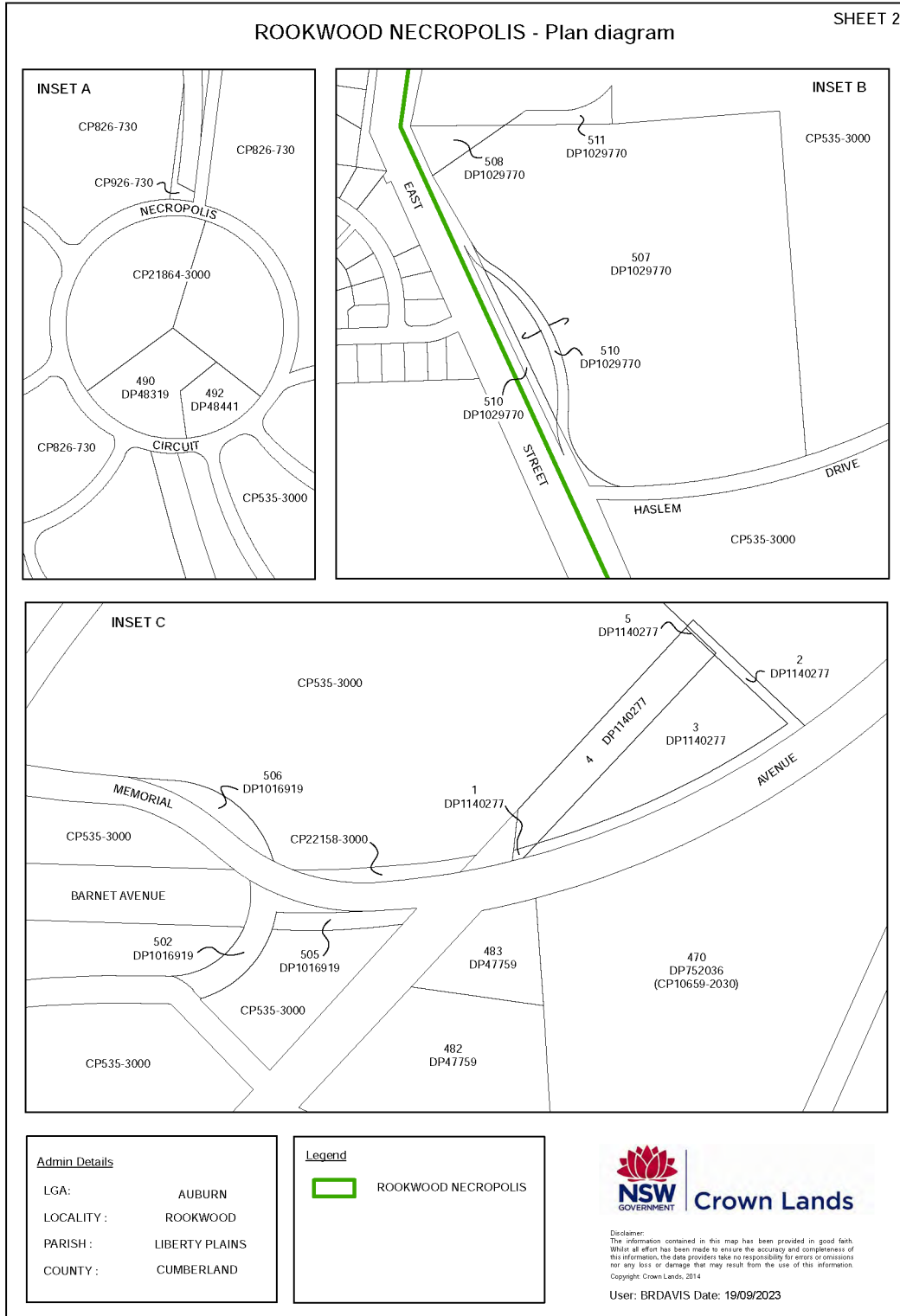












Schedule 2 Savings, transitional and other provisions

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the commencement of—
 - (a) a provision of this Act, or
 - (b) a provision amending this Act.
- (2) A savings or transitional provision consequent on the commencement of a provision must not be made more than 2 years after the commencement.
- (3) A savings or transitional provision made consequent on the commencement of a provision is repealed 2 years after the commencement.
- (4) A savings or transitional provision made consequent on the commencement of a provision may take effect before the commencement but not before—
 - (a) for a provision of this Act—the date of assent to this Act, or
 - (b) for a provision amending this Act—the date of assent to the amending Act.
- (5) A savings or transitional provision taking effect before its publication on the NSW legislation website does not—
 - (a) affect the rights of a person existing before the publication in a way prejudicial to the person, or
 - (b) impose liabilities on a person for anything done or omitted to be done before the publication.
- (6) In this section—

person does not include the State or an authority of the State.

2 Validation of certain disbursements and actions

- (1) This section applies if—
 - (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
 - (b) from the commencement, the disbursement or other action would be permitted under the CCC Trust in accordance with this Act.
- (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.
- (3) In this section—

commencement means the commencement of this section.

3 Validation of certain disbursements and actions of Metropolitan Memorial Parks Land Manager

- (1) This section applies if—
 - (a) before the commencement, the Metropolitan Memorial Parks Land Manager made a disbursement or took other action in relation to trust property, and
 - (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.
- (2) The disbursement or other action is taken to have been validly made or taken.
- (3) In this section—

commencement means the commencement of this section.

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

Schedule 3 Amendment of Crown Land Management Act 2016 No 58

Schedule 7 Savings, transitional and other provisions

Insert after clause 51—

Part 4 Provision consequent on enactment of Catholic Cemeteries and Crematoria Trust Act 2024

52 Crown reserve used for cemeteries

- (1) This clause applies to—
 - (a) land that, immediately before the commencement, was used as a cemetery managed by the Metropolitan Memorial Parks Land Manager, and
 - (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.
- (2) From the commencement—
 - (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
 - (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
 - (c) the Crown land manager for the land is the person who, immediately before the commencement, held the land, and
 - (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.
- (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.
- (4) This clause does not apply in relation to the CCC Trust within the meaning of the *Catholic Cemeteries and Crematoria Trust Act 2024*.
- (5) In this clause—

commencement means the commencement of this section.

Metropolitan Memorial Parks Land Manager means the land manager of that name constituted under this Act.