



Western Australia

Guildford Old Cemetery (Lands Revestment) Act 1949

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Guildford Old Cemetery (Lands Revestment) Act 1949

An Act relating to the Old Cemetery at Guildford.

Preamble

Whereas Sir James Stirling, a former Governor of this State, now deceased, is shown in the Enrolment Numbers 1 and 83 in the Registry of Deeds as the owner of an estate in fee simple in all that portion of land being part of Swan Location 16 bounded by lines starting from the junction of Terrace Road and Great Eastern Highway and extending Westerly along the Northern side of the former to the Southernmost South-Eastern corner of Lot 71 (Land Titles Office² Diagram 3191); thence Northerly 2 chains and five-tenths links along an Eastern boundary of the said lot; thence Easterly 5 chains 6 and three-tenths links along Southern boundaries of the said lot and of Lot 72 (Land Titles Office² Diagram 3390) to the North-Western side of Great Eastern Highway aforesaid; and thence South-Westerly along the latter to the starting point of an area of 3 roods and one and six-tenths perches; and whereas on 22 November 1848 the Bishop of Adelaide consecrated a church then existing on the land and the land as a churchyard, verily believing that the land had been assigned and transferred by or with the authority of Sir James Stirling to the Colonial Church Society, whose successors are the Perth Diocesan Trustees of the Church of England in Western Australia³; and whereas no memorial of such assignment and transfer has been placed on record in the Registry of Deeds in Perth; and whereas the land was for many years used as a site for a church and a burial ground, but has fallen into a state of disrepair and neglect; and whereas a portion of the said land is required by the Crown for the purpose of road widening; and whereas the Perth Diocesan Trustees are desirous of having the balance of the land vested in them in order that

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they may be lawfully entitled and enabled to upkeep the said lands and preserve the monuments thereon:

[Preamble amended by No. 19 of 2010 s. 50.]

Now, therefore, be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows: —

1. Short title

This Act may be cited as the *Guildford Old Cemetery (Lands Revestment) Act 1949*¹.

2. Lands revested in His Majesty

By virtue of the provisions of this section, the land referred to in the preamble to this Act is revested in His Majesty as of his former estate.

3. Authorisation of grant to Perth Diocesan Trustees

Subject to the provisions of this Act, the Governor may issue to the Perth Diocesan Trustees a Crown grant in fee simple without pecuniary consideration of so much of the revested land as shall remain after the requirements of His Majesty for corner truncation purposes referred to in section 6 shall have been made, subject to the permanent disabilities that the grantees shall maintain the grass in perpetuity at their cost to the satisfaction of the Crown, and shall at all times, between the hours of sunrise and sunset, allow of free public access on foot to the lands.

4. Power to remove monuments

The grantees may remove any monuments, headstones and grave fittings upon the revested land and place the monuments

and headstones in a group on such portion of the land in accordance with such plan, and dispose of the grave fittings in such manner as the Minister may approve, but no human remains shall be disturbed or interfered with.

5. Condition precedent to Crown grant

The grantees shall, before the issue of the Crown grant referred to in section 3, enter into an agreement with the Minister that they will —

- (i) at their own cost, carry out all works in connection with the removal and grouping of the monuments and headstones and dispose of the grave fittings, to the satisfaction of the Minister;
- (ii) at their own cost, take all reasonable precautions to care for and preserve the monuments and headstones;
- (iii) at their own cost, maintain in perpetuity the grass on the land so granted to them;
- (iv) at all times, between the hours of sunrise and sunset, allow of free public access on foot to the said land.

6. Authorisation of dedication for truncation

The Governor may, by notice in the *Government Gazette*, declare that so much of the revested land as is acquired by His Majesty for the purpose of truncating the corner at the junction of Great Eastern Highway and Terrace Road, Guildford, shall be a public highway, and from and after the date of the notice the land shall become and be absolutely dedicated to the public as a public highway within the meaning of any law now or hereafter in force.

Notes

- ¹ This is a compilation of the *Guildford Old Cemetery (Lands Revestment) Act 1949* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Guildford Old Cemetery (Lands Revestment) Act 1949</i>	18 of 1949 (13 Geo. VI No. 104)	24 Sep 1949	24 Sep 1949
Reprint 1: The <i>Guildford Old Cemetery (Lands Revestment) Act 1949</i> as at 15 Jan 2010			
<i>Standardisation of Formatting Act 2010</i> s. 50	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)

- ² Lands Titles Office diagrams are now being held by the Western Australian Land Information Authority (see the *Land Information Authority Act 2006* s. 100).
- ³ Under No. 4 of 1960 s. 5 a reference to “the Church of England in Western Australia” is to be construed as a reference to the Church of England in Australia so far as it is in the State. The name of the “Church of England in Australia” was changed to the “Anglican Church of Australia” by No. 121 of 1976 s. 3. This reference to the original name has not been changed due to its context.