

Schedule 1

Model by-law about protection and use of trust land

Section 4 of the current Land Regulation

Trust Land Protection and Use Model By-law

Part 1 General

1. Short title

This model by-law may be cited as the *Trust Land Protection and Use Model By-law*.

2. Purpose of model by-law

The purposes of this model by-law are—

- (a) to protect the trust land, including buildings on the land; and
- (b) to regulate the use of the trust land.

3. Application of pt 3

If part 3 applies to the trust land, sections 16 to 20 do not apply to the land.

4. Definitions

In this model by-law—

authority, of the trustee, includes a trustee permit.

drainage works includes the following—

- (a) underground stormwater drains;
- (b) culverts;
- (c) stormwater retention basins;
- (d) stormwater detention basins;
- (e) ponds;
- (f) channels.

motor vehicle see the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

navigational equipment means a navigational aid, beacon or device.

regulatory notice see section 5(1).

trust land means the trust land for which the trustee has adopted this model by-law.

vehicle includes a motor vehicle, trailer, bicycle, carriage, cart, wagon and any other means of transport or conveyance designed for movement on wheels, whether or not the vehicle is capable of being operated or used in a way that is normal for the vehicle.

5. Trustee may erect or display regulatory notice

- (1) The trustee may, consistently with the community purpose of the land, erect or display in relation to the land or a part of the land a notice (***a regulatory notice***) for regulating or prohibiting—
 - (a) the use of the land or the part of the land by persons; or
 - (b) the driving onto or from the land of vehicles or vehicles included in a class of vehicles stated in the notice; or
 - (c) the use in the land or the part of the land of vehicles or vehicles included in the stated class of vehicle; or
 - (d) the bringing onto the land or the part of the land of all animals, or an animal included in a class of animals stated in the notice.
- (2) A regulatory notice—
 - (a) may be erected or displayed on, or at or near an entrance to, the trust land or the part of the land to which the notice relates; and
 - (b) must indicate a particular requirement to be complied with by persons entering, or on, the trust land or the part of the land.

6. References to person acting for trustee

- (1) In a provision of this model by-law, a reference to a person acting for the trustee is a reference to a person chosen by the trustee to act for the trustee under the provision.
- (2) A person chosen by the trustee to act for the trustee under a provision must be appropriately qualified to act for the trustee under the provision.
- (3) In this section—

appropriately qualified includes having the qualifications, experience or standing appropriate to act for the trustee.

Part 2 Particular activities prohibited

Division 1 General

7. Disturbing peaceful use of trust land

A person must not act in a way or do anything that unreasonably disturbs, or is likely to disturb, another person's peaceful use of the trust land.

Maximum penalty—5 penalty units.

8. Displaying or distributing literature

A person must not, other than under the authority of the trustee, display or distribute a handbill, notice, ticket or any other kind of literature on the trust land.

Maximum penalty—5 penalty units.

9. Litter

- (1) A person must not put, or allow to be put, litter on the trust land.

Maximum penalty—10 penalty units.

- (2) A person does not commit an offence under subsection (1) merely because the person—

- (a) puts litter in a receptacle installed on the trust land for receiving litter; or
- (b) as an incident of the person's enjoyment of the trust land, and for no longer than is reasonably necessary for the enjoyment, deposits litter on the land other than by depositing it in a receptacle mentioned in paragraph (a).

- (3) In this section—

litter means garbage, refuse or rubbish, whether in a fluid or solid state, and includes anything that causes or contributes to the defacement of the place where it is.

put includes the following—

- (a) deposit;
- (b) drop;
- (c) leave;
- (d) place;
- (e) throw.

10. Lighting fires

- (1) A person must not, on the trust land, light, keep going or use a fire other than in a fireplace or barbecue supplied by the trustee for the use of fire.

Maximum penalty—5 penalty units.

- (2) A person does not commit an offence under subsection (1) if—

- (a) the person lights or uses a fire in a barbecue, stove or other appliance specially constructed for containing a fire; and
- (b) the use of the barbecue, stove or other appliance is agreed to by a person acting for the trustee.

11. Damaging or interfering with land or improvements

- (1) A person must not, other than under the authority of the trustee, damage or interfere with—

- (a) soil or turf on the trust land; or
- (b) a plant growing on the trust land; or
- (c) improvements, signs or equipment on the trust land.

Maximum penalty—10 penalty units.

- (2) This section does not apply to damage of or interference with trees.

12. Entering closed areas

- (1) This section applies if—

- (a) the trustee designates a part (the ***closed area***) of the trust land, either permanently or only for particular periods, as closed to the public; and
- (b) a regulatory notice clearly indicates—
 - (i) the closed area; and

- (ii) whether the designation is permanent or, if not, the particular periods when the designation has effect.
- (2) A person must not enter the closed area—
- (a) if the designation indicates the closed area is permanently closed to the public—at any time; or
- (b) if the designation indicates the closed area is closed to the public only during particular indicated periods—during the particular indicated periods.
- Maximum penalty—10 penalty units.

Examples—

- 1 The trustee designates a part of the trust land as a closed area permanently to protect an environmentally fragile or sensitive area.
- 2 The trust land is dedicated or granted in trust for navigational purposes and the trustee designates a part of the land as a closed area permanently for 1 or more of the following reasons—
 - to protect navigational equipment on the land from damage
 - to ensure navigational signals sent by or from navigational equipment on the land are not interrupted or obscured
 - to protect the health and safety of the public by preventing people from coming too near to microwave, radar, laser or other navigational signals transmitted by or from navigational equipment on the land.
- 3 The trust land is dedicated or granted in trust for drainage and the trustee designates a part of the land as a closed area permanently to protect—
 - the public from the dangers presented by water pumping equipment, stormwater drains or other drainage works
 - the drainage works from damage
 - to ensure the free flow of water to, across or from the land.
- 4 The trustee designates a part of the trust land as a closed area for a particular period during which renovations are carried out to the land.

13. Camping

A person who camps on the trust land must not, other than under the authority of the trustee, camp on a part of the land unless the part is designated under a regulatory notice as an area for camping.

Maximum penalty—10 penalty units.

14. Selling things

A person must not, other than under a trustee lease or the authority of the trustee, sell anything or offer anything for sale on the trust land.

Maximum penalty—5 penalty units.

Division 2 Vehicles

15. Driving vehicle onto or from land

A person must not, other than under the authority of the trustee, drive a vehicle onto or from the trust land, unless—

- (a) a regulatory notice indicates a gateway or opening as a place for vehicles to enter or leave the land; and
- (b) the person drives the vehicle through the gateway or opening.

Maximum penalty—5 penalty units.

16. Person driving motor vehicle must be licensed

- (1) A person must not drive a motor vehicle on the trust land unless the person is licensed to drive the vehicle under a law of the State about the use of vehicles on a public road.

Maximum penalty—5 penalty units.

- (2) However, a person who is not licensed to drive a motor vehicle on a public road does not commit an offence under subsection (1) if the person drives the vehicle under the authority of the trustee and only on the trust land.

17. Motor vehicle must be registered

A person must not, other than under the authority of the trustee, take a motor vehicle onto, or drive a motor vehicle on, the trust land unless the vehicle is registered under a law of the State about the use of vehicles on a public road.

Maximum penalty—5 penalty units.

18. Driving, moving, operating, parking or using vehicle

- (1) A person must not disobey a reasonable direction given by the trustee, or a person acting for the trustee, about the movement, operation, parking or use of a vehicle on the trust land.

Maximum penalty—5 penalty units.

- (2) A person must not, other than under the authority of the trustee, drive or operate a vehicle on the trust land—

- (a) in a way, or at a place, if driving or operating the vehicle in the way or at the place could damage vegetation; or
- (b) to enter a place where a barrier or fence has been lawfully erected or placed to prevent the entry.

Maximum penalty—10 penalty units.

19. Driving or operating motorcycle

- (1) A person must not drive or operate a motorcycle on the trust land—

- (a) if the driver or a passenger on the motorcycle is not wearing a safety helmet that—

- (i) is of a standard required under the *Transport Operations (Road Use Management) Act 1995* to be worn by a person riding a motorcycle on a road; and

- (ii) is securely fastened under the chin of the wearer using a chin strap attached to the safety helmet; or
 - (b) if the front and rear wheels of the motorcycle do not stay in contact with the ground all the time the motorcycle is moving.
- Maximum penalty—10 penalty units.
- (2) A person does not commit an offence under subsection (1)(b) if, in acting in a way that would contravene the subsection, the person is acting under the authority of the trustee.

20. Parking or standing vehicle

A person must not park or stand a vehicle in a way, or at a place, on the trust land if parking or standing the vehicle in the way or at the place—

- (a) obstructs, to an unreasonable extent, the movement of a person or another vehicle; or
- (b) is likely to cause damage to the trust land; or
- (c) is not in conformity with ground or surface markings on the land clearly intended for ordering the parking and standing of vehicles.

Maximum penalty—5 penalty units.

Division 3 Animals

21. Protection of animals

A person must not, other than under the authority of the trustee, in, on, under or above the trust land—

- (a) destroy, snare, shoot, injure, disturb, or interfere with a bird, fish, reptile or other animal; or
- (b) destroy or interfere with a bird's nest.

Maximum penalty—5 penalty units.

22. Prohibition of animals

A person must not bring an animal onto the trust land if—

- (a) a regulatory notice indicates that animals of that type are not permitted on the land; and
- (b) the notice is erected at all places reasonably necessary for informing the public of the prohibition, including, for example, the places of entry to and exit from the land.

Maximum penalty—5 penalty units.

23. Control of animals

(1) This section applies if—

- (a) a regulatory notice indicates that a person may bring an animal onto, or keep an animal on, the trust land only on particular conditions; and
- (b) the notice is erected at all places reasonably necessary for informing the public of the conditions, including, for example, the places of entry to and exit from the land.

Example of a condition for subsection (1)(a)—

A regulatory notice might indicate that it is a condition of bringing a horse onto the trust land that the horse must at all times, when on the land, be under the control of a person or be securely tethered.

- (2) A person who brings an animal onto, or keeps an animal on, the land must not contravene a condition, indicated on a regulatory notice, on which a person may bring an animal onto, or keep an animal on, the land.

Maximum penalty—5 penalty units.

24. Dogs

- (1) A person who has a dog in the person's charge on the trust land must, at all times the dog is on the land, restrain the dog by a lead or leash.

Maximum penalty—5 penalty units.

- (2) A person who has a dog in the person's charge on the trust land must not allow the dog to behave in a way that causes unreasonable noise, annoys another person or puts another person in danger.

Maximum penalty—5 penalty units.

- (3) A person who has a dog, other than a prescribed dog, in the person's charge on the trust land must not allow the dog to stay on the land overnight, other than in an area designated by a regulatory notice as an area where dogs may stay overnight.

Maximum penalty—5 penalty units.

- (4) A person does not commit an offence under subsection (1) or (3) if, in acting in a way that would contravene the subsection, the person is acting under the authority of the trustee.

- (5) In this section—

prescribed dog means an assistance dog, guide dog, hearing dog, or trainee support dog, as defined under the *Guide, Hearing and Assistance Dogs Act 2009*, schedule 4.

Part 3 Navigational purposes

25. Application of pt 3

This part applies to the trust land if it is dedicated or granted in trust for navigational purposes.

26. No driving, parking or standing motor vehicle in closed area

- (1) This section applies if—

(a) the trustee designates a part (the **closed area**) of the trust land, either permanently or only for particular periods, as closed to motor vehicles; and

(b) a regulatory notice clearly indicates—

(i) the closed area; and

(ii) whether the designation is permanent or, if not, the particular periods when the designation has effect.

Example—

The trustee designates a part of the trust land as a closed area at night to ensure no lights on a motor vehicle in the area interfere with the effective operation of the navigational light signal from a navigational beacon on the land and arranges for a regulatory notice to be erected on the land.

- (2) A person must not drive, park or stand a motor vehicle in a closed area—
 - (a) if the designation indicates the closed area is permanently closed to motor vehicles—at any time; or
 - (b) if the designation indicates the closed area is closed to motor vehicles only during particular periods—during the particular periods.

Maximum penalty—10 penalty units.

27. Damaging or interfering with navigational equipment

A person must not damage or interfere with navigational equipment on the trust land.

Maximum penalty—10 penalty units.

Part 4 Drainage purposes

28. Damage to or interference with land or works

- (1) This section applies to the trust land if it is dedicated or granted in trust for drainage.
- (2) A person must not damage or interfere with the surface of, or drainage works on or under, the trust land.

Maximum penalty—10 penalty units.