

## BOTANY ROAD TRUST CONSTITUTION ACT.

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Act No. 41, 1922.

George V, **An Act** to establish a Botany Road Trust for the purpose of the reconstruction and maintenance of the Botany Road; to amend the Local Government Act, 1919, and certain other Acts; to make certain grants from the Consolidated Revenue Fund in aid of the Botany Road Trust, and to confer certain powers thereupon; and for purposes connected therewith. [Assented to, 29th November, 1922.]

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**B**E it enacted by the King's Most Excellent Majesty, George V,  
No. 41.  
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:—

**1.** This Act may be cited as the “Botany Road Short title.  
Trust Constitution Act, 1922,” and shall be read with the Local Government Act, 1919, herein referred to as the Principal Act.

**2.** In this Act, unless the subject-matter or context Definitions.  
otherwise requires—

“Constituent councils” means the councils of the municipalities of Alexandria, Botany, Mascot, Redfern, and Waterloo.

“The Road” means Regent-street from the boundary of the City of Sydney to Botany Road, and the Botany Road from its junction with Regent-street to the prolongation of the east building-line of Wilson-street in the municipality of Botany.

“Trust” means the Botany Road Trust constituted by this Act.

**3.** For the purpose of reconstructing and maintaining Establish-  
ment of  
trust.  
the Road, a trust shall be established which shall, under the name of the Botany Road Trust, be a body corporate and have a common seal, and in its corporate name be capable of holding property of any description and of suing and being sued. The members of the trust shall not be paid, but shall give their services gratuitously.

**4.** (1) The trust shall consist of ten members who Constitution  
of trust.  
shall be elected as follows:—Two members to be elected by each of the constituent councils from the members of such council.

(2) The first election of the members of the trust shall take place on or before a day to be notified by the Governor in the Gazette, and if any council fails on or before that day to elect members or a member the Governor may, by notification in the Gazette, appoint a member or members of the council so making default to be members of the trust; and every person so appointed shall for all purposes of this Act be deemed to be a duly elected member of the trust.

**5.**

- George V,  
No. 41.** **5.** (1) Members shall hold office until their successors are elected.
- Tenure of  
office.** (2) In each year the members shall elect from their number a chairman, who shall hold office for that year or until his successor as such chairman is elected.
- Removal of  
member,  
vacancies, &c.** **6.** (1) The Governor may for sufficient cause suspend or remove any member of the trust from his office.
- (2) If any member of the trust absents himself from three consecutive meetings thereof without having obtained leave of absence from the trust, his seat shall become vacant.
- (3) On any vacancy occurring during the term of office of a member by death, resignation, removal, or otherwise, such vacancy shall be filled by a member of the council elected by the council which elected the person in whose office the vacancy occurred. The person so elected shall hold office for the residue of his predecessor's term.
- Elections.** **7.** Within one month after the triennial elections under the Principal Act at which the members of the constituent councils are elected, each of such constituent councils shall elect from its number two members to the office of members of the trust.
- Chairman's  
casting vote,  
quorum, &c.** **8.** (1) The chairman shall have the right to vote on all occasions, and in the event of an equality of votes shall have a second or casting vote.
- (2) At any meeting of the trust four members shall be a quorum.
- Method of  
election, &c.** **9.** The methods of election of members of the trust, the provision for the resignation of members of the trust, and for the conduct of business, shall be as near as may be those provided for a county council under Part XXIX of the Principal Act.
- Employment  
of officers.** **10.** The trust may from time to time appoint or employ such and so many officers and servants as it thinks fit, and remove or dismiss them.

*Powers of the trust.*

- Powers of  
trust.** **11.** (1) The trust is empowered to construct, reconstruct, and maintain the Road and also such further part of the Botany Road as may be from time to time committed to their charge under the provisions of this Act.
- (2)

(2) The trust, in respect of the Road, may exercise all the powers given by any Act to a council in respect of public roads, and to the extent necessary for the exercise of the powers given by this Act the care, control, and management of the Road is vested in the trust and divested from those councils in which at the commencement of this Act it was reposed.

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(2) The Governor may by proclamation, as and from a date to be stated in the proclamation, vest in the trust the care, control, and management of all that part of the Botany Road from the prolongation of the eastern building line of Wilson-street to the boundary between the municipalities of Botany and Randwick ; and after the publication of the proclamation in the Gazette the trust shall have from the said date so stated in respect of such part all the powers and duties conferred and imposed upon them by this Act in respect of the Road.

(4) No such proclamation shall be made unless and until the trust and the council of the municipality of Botany have in writing requested that the proclamation be made.

### *Finance.*

**12.** (1) For the purposes of this Act the trust, with the approval of the Governor, may borrow sums not exceeding in the aggregate two hundred thousand pounds, and may issue debentures in such denominations as it may think fit, to secure the sums borrowed.

Power to  
borrow.

(2) Such debentures shall by virtue of this Act be charged upon the income of the constituent councils in such proportions as may be determined by the trust, confirmed by resolutions of the constituent councils and stated in the debentures, and such charge shall rank in priority before any loan raised or indebtedness incurred by the council subsequently to the issue of the debentures.

Apportion-  
ment of  
liability.

(3) As between the constituent councils the liability shall be apportioned by the trust according to the actual cost of the work carried out within each council's area.

(4)

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(4) In case of any difference arising between the trust and any of the constituent councils under this Act the matter may be determined in manner provided by section six hundred and fifty-four of the Principal Act.

Provisions for  
contributions  
by councils.

**13.** (1) The trust shall, within three months of the passing of this Act and thereafter in the month of December in each year, notify each of the constituent councils in writing of the amount to be contributed by that council towards the repayment of the said loan and interest thereon during the year following.

(2) The trust shall also notify each constituent council in the manner and at the time aforesaid of the amount to be contributed by that council towards the cost of maintenance of the said Road and administration of the trust during the year following.

(3) Each of the councils shall include the amounts so notified as aforesaid in its estimates for the year, and shall pay the said amounts to the trust at such times and in such instalments as the trust may in writing require.

(4) If any of the councils do not so pay the amounts within one month after being required so to do the trust may recover the amount from the council as a debt due to the trust by the council.

Power to levy  
rates, &c.

**14.** Each of the constituent councils may pay any such sums from its general funds or make and levy a rate for the purpose of paying any sums required to be paid by it to the trust under this Act, and the provisions of section one hundred and twenty-nine of the Principal Act shall not apply to any such rate.

Application  
of subsidies.

**15.** Any contribution received by the trust, either by way of subsidy from the Government or from any other source, shall be applied by the trust in aid of the liability of the constituent councils under this Act.

Recovery of  
moneys due  
under  
debentures.

**16.** (1) In the event of any money due under a debenture, either for principal or interest, remaining unpaid for a period of three months after its due date, the holder of the debenture may recover from each constituent council its proportionate share of the money due as if the debenture had been given by that council

*Section 16.*

for

for such proportionate share, and the debenture holder shall be entitled to any remedies to which he would be entitled under the Principal Act if the debenture had been issued by the council.

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(2) The provisions of sections one hundred and eighty-nine, one hundred and ninety, one hundred and ninety-one, one hundred and ninety-two, and one hundred and ninety-seven of the Principal Act shall be deemed to apply mutatis mutandis to the debentures issued by the trust under this Act.

**17.** The approval of the Governor to any loan hereunder shall, for the purposes of the loan and the recovery thereof, be conclusive evidence that the trust had power to borrow the money and that all the provisions of this Act had to the time of the approval been duly complied with.

Approval of  
Governor to  
be evidence.

*Grant in aid.*

**18.** (1) There shall be paid to the trust out of the Consolidated Revenue Fund as a grant in aid of the purposes for which the trust is constituted within six months after the trust has borrowed any sum under this Act, the sum of three thousand seven hundred and fifty pounds, and in every six months thereafter for a period of fifteen years a like sum, amounting in all to the sum of one hundred and twelve thousand five hundred pounds, which sums shall in each instance be applied by the trust towards payment of the amount borrowed and interest thereon.

Grant from  
Consolidated  
Revenue.

(2) The aforesaid amounts may be paid by the Colonial Treasurer out of the Consolidated Revenue Fund under the authority of this Act, upon the certificate of the Minister, and without further appropriation.

(3) The Minister may withhold his certificate unless and until he is satisfied that the work for which the trust is constituted is being properly carried out in accordance with the approved plans and specifications, and that the duties imposed upon the trust by this Act are being efficiently performed.

(4) If the total amount expended for reconstruction is less than the amount authorised to be borrowed by this Act, the total amount of Government contributions shall be reduced proportionately.

**19.**

- George V,  
No. 41.** **19.** The reconstruction of the Road shall not be entered upon nor shall any contract in respect thereof be executed by the trust unless and until the proposed plans and specification of the work to be carried out and the form of contract (if any) have been approved by the Minister.
- Plans and contracts.
- 20.** The trust shall in each year furnish a report to the Minister as to the operations carried on by it during the previous year, and shall furnish a copy of the report to each of the constituent councils.
- Report.
- 21.** The trust shall be subject to the provisions of the Principal Act and the ordinances made thereunder relating to accounts and audit of accounts of councils.
- Accounts and audit.
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