



New South Wales

# Royal Botanic Gardens and Domain Trust Regulation 2020

under the

Royal Botanic Gardens and Domain Trust Act 1980

[*The following enacting formula will be included if this Regulation is made—*]

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Royal Botanic Gardens and Domain Trust Act 1980*.

Minister for Planning and Public Spaces

## Explanatory note

The object of this Regulation is to remake, with amendments, the *Royal Botanic Gardens and Domain Trust Regulation 2013*, which will be repealed on 1 September 2020 by section 10(2) of the *Subordinate Legislation Act 1989*.

This Regulation deals with the management, use and regulation of the land vested in the Royal Botanic Gardens and Domain Trust (***Trust lands***), including—

- (a) the entry of persons onto the Trust lands, and
- (b) the use of vehicles on the Trust lands, and
- (c) commercial and public activities, and
- (d) recreational activities, and
- (e) offensive and dangerous conduct, and
- (f) the bringing of animals on the Trust lands, and
- (g) the offences under this Regulation for which penalty notices may be issued and the amount of the penalty payable.

This Regulation is made under the *Royal Botanic Gardens and Domain Trust Act 1980*, including sections 22 (the general regulation-making power) and 22B.

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## Royal Botanic Gardens and Domain Trust Regulation 2020

under the

Royal Botanic Gardens and Domain Trust Act 1980

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Royal Botanic Gardens and Domain Trust Regulation 2020*.

#### 2 Commencement

This Regulation commences on 1 September 2020 and is required to be published on the NSW legislation website.

**Note.** This Regulation replaces the *Royal Botanic Gardens and Domain Trust Regulation 2013*, which is repealed on 1 September 2020 by section 10(2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

(1) In this Regulation—

**animal** means any non-human mammal or any bird, fish, reptile, amphibian, crustacean, insect, arachnid, arthropod or mollusc.

**authorised person** means—

- (a) a police officer, or
- (b) any other person appointed in writing by the Trust as an authorised person for the purposes of this Regulation.

**Note.** A person may be appointed as an authorised person generally or for the purposes of specific provisions of this Regulation.

**building** includes any part of a building.

**fenced off** means surrounded by a fence, barricade or other structure (whether temporary or permanent) with no open pedestrian or vehicular access.

**liquor** has the same meaning as in the *Liquor Act 2007*.

**motor vehicle** has the same meaning as in the *Road Transport Act 2013*.

**Note.** **Motor vehicle** includes motorcycle.

**protected structure** means any of the following—

- (a) a fence, barrier, gate, post or railing,
- (b) a step, stair, wall or building,
- (c) a seat or other furniture,
- (d) play equipment,
- (e) a fountain, sculpture, statue, ornament or vase.

**relevant authority** means the Trust, the Executive Director or an authorised person.

**sea wall** means the part of the stone wall bordering Farm Cove (and separating Sydney Harbour from the Royal Botanic Garden Sydney and part of the Domain) that

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runs from the Queen Elizabeth II Gate entrance to the Royal Botanic Garden Sydney to the rocks on Mrs Macquarie's Point.

**sign** includes a board, post, banner, notice or painted marking, flag or electronic or similar device, whether temporary or permanent.

**the Act** means the *Royal Botanic Gardens and Domain Trust Act 1980*.

**the Domain** means that part of the Trust lands known as the Domain.

**the Gardens** means that part of the Trust lands known as—

- (a) the Royal Botanic Garden Sydney, or
- (b) the Australian Botanic Garden Mount Annan, or
- (c) the Blue Mountains Botanic Garden Mount Tomah, or
- (d) the Mount Tomah Conservation Area.

**the Mount Tomah Conservation Area** means that part of the Trust lands being Lot 35, DP 232476 and being approximately 189 hectares located north of the Bells Line of Road opposite the Blue Mountains Botanic Garden Mount Tomah.

**vehicle** includes the following—

- (a) a motor vehicle,
- (b) a bicycle,
- (c) a trailer or caravan, whether or not it is in the course of being towed,
- (d) an apparatus that is propelled by human or mechanical power, or by the wind, and is wholly or partly used for the conveyance of persons or things, other than a wheelchair, pram or stroller,
- (e) a motorised wheelchair that is capable of a speed of more than 10 kilometres per hour over level ground,
- (f) a vehicle that is being drawn by an animal,
- (g) an animal that is being ridden or is drawing a vehicle,
- (h) a boat, raft, canoe, ski, barge or other vessel,

but does not include a train or a wheeled toy or a wheeled recreational device (such as rollerblades or a skateboard).

**Note.** The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

- (2) A reference in this Regulation to the Trust lands includes a reference to any part of the Trust lands.
- (3) In this Regulation, a person is **responsible** for an animal if the person is in charge of the animal or otherwise has the animal under the person's control.
- (4) Notes included in this Regulation do not form part of this Regulation.

## Part 2 Entry onto Trust lands

### 4 Trust lands and buildings may be closed to public

- (1) The Trust or the Executive Director may—
  - (a) close the Trust lands to the public, or
  - (b) close any building within the Trust lands to the public.
- (2) The Trust or the Executive Director may take action under this clause by means of the display of a sign on or adjacent to the Trust lands or building concerned.
- (3) A person must not enter (whether on foot, by vehicle or otherwise) the Trust lands, or any building within the Trust lands, that is fenced off, locked, or closed to the public by a sign displayed under this clause, except with the written permission of, and in the manner approved by, the Trust or the Executive Director.  
Maximum penalty—10 penalty units.

### 5 Entry into Royal Botanic Garden Sydney by sea wall

- (1) A person must not, without the written permission of the Trust, enter or leave the Royal Botanic Garden Sydney by means of the sea wall.  
Maximum penalty—10 penalty units.
- (2) This clause does not apply in the case of an emergency.

### 6 Limit on number of persons who may enter Trust lands

- (1) The Trust may limit the number of persons who may enter or remain on the Trust lands or any building within the Trust lands.
- (2) The Trust may take action under this clause by means of a direction or the display of a sign on or adjacent to the Trust lands or building concerned.
- (3) A person must not enter or remain on Trust lands, or any building within the Trust lands, in contravention of a direction given or sign displayed under this clause.  
Maximum penalty—10 penalty units.

### 7 Trust may impose conditions on entry

- (1) The Trust may give a direction imposing conditions subject to which the public may enter any part of the Trust lands.
- (2) If the Trust has imposed a condition, a person who enters that part of the Trust lands must comply with the condition unless the person has the written permission of the Trust.  
Maximum penalty—10 penalty units.

### 8 Trust lands may be used for designated purposes

- (1) The Trust or the Executive Director may designate the Trust lands or any building within Trust lands (a *designated space*) for use for the purpose of—
  - (a) an organised sporting activity, or
  - (b) an organised entertainment, or
  - (c) an organised ceremony or other event, or
  - (d) any other organised activity.
- (2) The Trust or the Executive Director may take action under this clause by means of a direction or the display of a sign on or adjacent to the Trust lands or building concerned.

- (3) A person may, with the written permission of, and in the manner approved by, the Trust or the Executive Director—
  - (a) use a designated space for the purpose for which it is designated, and
  - (b) designate points on the perimeter of the designated space as entrances for persons attending the organised activity, entertainment, ceremony or event concerned by a sign displayed adjacent to those points, and
  - (c) prevent people from entering the designated space other than through those entrances, and
  - (d) prevent people from entering the designated space without paying a fee approved by the Trust or the Executive Director.
- (4) The use of the Trust lands in accordance with a permission granted under this clause is not a contravention of clause 18.
- (5) The Trust or the Executive Director may also designate the Trust lands, or any building within the Trust lands, as lands that may be used for specified activities (such as fishing or riding pedal-cars or similar devices) that are not organised activities by a sign displayed on or near the lands or building concerned.

## **9 Removal of certain persons from Trust lands**

- (1) A person who does any of the following on the Trust lands must leave the Trust lands if directed to do so by a relevant authority—
  - (a) trespasses,
  - (b) causes inconvenience to any person,
  - (c) contravenes this Regulation.
- (2) A direction given under this clause may specify any one or more of the following—
  - (a) the part of the Trust lands to which the direction relates,
  - (b) the period within which the person must leave the Trust lands concerned,
  - (c) the period during which the person must not return to the Trust lands concerned.
- (3) In specifying a period under subclause (2)(b) or (c), a relevant authority must take into consideration the seriousness and persistence of the conduct concerned.
- (4) A person who fails to comply with a direction given under this clause may be removed from the Trust lands by a relevant authority.
- (5) A person who leaves or is removed from the Trust lands under this clause must remove any equipment, vehicle or animal (whether alive or dead), or any other item belonging to or associated with the person, from the Trust lands.  
Maximum penalty—10 penalty units.
- (6) A person must not remain on, enter or return to the Trust lands in contravention of a direction given under this clause.  
Maximum penalty—10 penalty units.

## Part 3 Use of vehicles on Trust lands

### 10 Trust may prohibit and regulate entry of vehicles

- (1) The Trust may do any one or more of the following—
  - (a) prohibit the entry of vehicles to the Trust lands,
  - (b) regulate or otherwise control the entry of a vehicle to the Trust lands,
  - (c) refuse to admit a vehicle to the Trust lands.
- (2) The Trust may take action under this clause by means of a direction or the display of a sign.
- (3) A person must not do anything in contravention of a direction given or sign displayed under this clause.  
Maximum penalty—10 penalty units.

### 11 Vehicles may enter or exit only at designated points

- (1) The Trust may designate a point on the perimeter of the Trust lands as an entrance or exit for any vehicle by a sign displayed adjacent to that point.
- (2) A person must not drive or ride any vehicle onto or out of the Trust lands other than at a point designated in accordance with this clause.  
Maximum penalty—10 penalty units.

### 12 Vehicles may enter only while gates are open

- (1) The Trust may designate the times during which an entrance to the Trust lands is open to vehicles (the *gate opening times*)—
  - (a) by a sign displayed adjacent to the entrance, or
  - (b) by public notice, including by notice published on a website maintained by the Trust.
- (2) A person must not drive or ride a vehicle (other than a bicycle) onto or within the Trust lands outside the gate opening times, except with the permission of the Trust.  
Maximum penalty—10 penalty units.
- (3) The Trust is entitled to require payment of a fee (not exceeding \$100) determined by the Trust for the opening of a gate outside the gate opening times to permit the removal of a vehicle from the Trust lands.
- (4) An authorised person may require and receive any fee determined under subclause (3).

### 13 Vehicle-free periods

- (1) The Trust or the Executive Director may designate dates and times during which all vehicles or a class of vehicles must not be on the Trust lands (a *vehicle-free period*).
- (2) The Trust or the Executive Director may take action under this clause by means of—
  - (a) the display of a sign, or
  - (b) public notice, including by notice published on a website maintained by the Trust.
- (3) A person must not drive or ride a vehicle onto or within the Trust lands during a vehicle-free period, except with the permission of the Trust or the Executive Director.  
Maximum penalty—10 penalty units.



- (4) Without limiting the way in which permission referred to in subclause (3) may be granted, permission may be granted—
  - (a) by the display of a sign, or
  - (b) by public notice (including by notice published on a website maintained by the Trust) or advertisement, or
  - (c) in relation to any function or meeting to be held on the Trust lands—by notice in writing to the organiser of the function or meeting.
- (5) Without limiting clause 42, it is a condition of a permission referred to in subclause (3) that the person driving or riding the vehicle concerned complies with any reasonable directions given by an authorised person in relation to the vehicle.
- (6) The Trust is entitled to require payment of a fee (not exceeding \$100) determined by the Trust for the opening of a gate during a vehicle-free period to permit the removal of a vehicle from the Trust lands.
- (7) An authorised person may require and receive any fee determined under subclause (6).

#### **14 Driving and parking vehicles**

- (1) The Trust or the Executive Director may—
  - (a) designate part of the Trust lands for use for the purpose of driving or parking vehicles by a sign displayed on or near the area, and
  - (b) regulate the parking of vehicles on any part of the Trust lands by a sign displayed on or adjacent to the Trust lands concerned.
- (2) A person must not do any of the following on the Trust lands, except with the written permission of, and in the manner approved by, the Trust or the Executive Director—
  - (a) drive, ride, stand or park a vehicle other than on a sealed road or part of the Trust lands designated under subclause (1),
  - (b) cause or permit a vehicle to be driven, ridden, stood or parked other than on a sealed road or part of the Trust lands designated under subclause (1),
  - (c) drive, ride or park a vehicle contrary to, or act contrary to, a sign displayed by the Trust or the Executive Director that regulates the movement or parking of vehicles or the movement or confinement of animals,
  - (d) connect a vehicle to a water or electricity supply located on the Trust lands,
  - (e) abandon a vehicle,
  - (f) park or leave a vehicle parked on the Trust lands outside the times designated as gate opening times under clause 12,
  - (g) park or leave a vehicle during a vehicle-free period under clause 13.Maximum penalty—10 penalty units.
- (3) Without limiting the way in which the Trust or the Executive Director may grant a permission referred to in subclause (2), permission may be granted—
  - (a) by public notice, including by notice published on a website maintained by the Trust, or
  - (b) in relation to any function or meeting to be held on the Trust lands—by notice in writing to the organiser of the function or meeting.
- (4) Without limiting clause 42, it is a condition of a permission referred to in subclause (2) that the person driving or riding the vehicle concerned complies with any reasonable directions given by an authorised person in relation to the vehicle.

## 15 Speed of vehicles

- (1) The Trust may determine the maximum speed at which a person may drive or ride a vehicle on the Trust lands.
- (2) The Trust is to specify the maximum speed—
  - (a) on a sign displayed on that land, or
  - (b) by means of a numeral or other symbol painted or otherwise placed on a road on that land.
- (3) A person must not, except with the written permission of, and in the manner approved by, the Trust, drive or ride a vehicle on the Trust lands at a speed exceeding that determined by the Trust in respect of the land concerned.  
Maximum penalty—10 penalty units.

## 16 Other restrictions on driving and riding vehicles

A person must not do any of the following on the Trust lands, except with the written permission of, and in the manner approved by, the Trust or the Executive Director—

- (a) teach a person to drive or ride a motor vehicle,
- (b) learn to drive or ride a motor vehicle,
- (c) drive an omnibus or a motor vehicle—
  - (i) with a tare weight of more than 3 tonnes, or
  - (ii) with a height of more than 4 metres.

Maximum penalty—10 penalty units.

## 17 Exceptions for emergency vehicles

- (1) A provision of this Regulation concerning vehicles or drivers of vehicles does not apply to or in respect of an emergency vehicle if—
  - (a) in the circumstances the driver is taking reasonable care and it is reasonable that the provision should not apply, and
  - (b) in the case of a moving emergency vehicle—the emergency vehicle is displaying a flashing light or sounding an alarm.
- (2) Subclause (1)(b) does not apply to the driver if, in the circumstances, it is reasonable—
  - (a) not to display the light or sound the alarm, or
  - (b) for the emergency vehicle not to be fitted or equipped with a flashing light or an alarm.
- (3) In this clause, **emergency vehicle** means a vehicle driven by a person who is—
  - (a) a police officer acting in the course of the person's duties as a police officer, or
  - (b) a member of the Ambulance Service rendering or providing emergency transport for sick or injured persons, or
  - (c) a member of a fire brigade providing transport in the course of an emergency, or
  - (d) a ranger acting in the course of the person's duties as a ranger, or
  - (e) an authorised person acting in the course of the person's duties as an authorised person.

## Part 4 Commercial and public activities on Trust lands

### 18 Prohibited commercial and public activities

A person must not do any of the following on the Trust lands, except with the written permission of, and in the manner approved by, the Trust—

- (a) sell or hire, or attempt to sell or hire, any goods or services,
- (b) establish or operate a business,
- (c) use any audio, loudspeaker or broadcasting equipment or camera (whether photographic, cinematic or video) for a commercial purpose,
- (d) collect a petition or conduct a survey,
- (e) distribute any advertising matter or display any advertisement (including by means of a mobile billboard or other vehicle that is designed or, while on the Trust lands, used for the primary purpose of displaying advertisements),
- (f) collect or attempt to collect money,
- (g) busk,
- (h) conduct or cause the conduct of an amusement, entertainment, event, promotion, instruction or performance, whether or not conducted for profit,
- (i) organise or participate in, or cause to be organised, a public meeting, function, demonstration or other public activity,
- (j) purchase or attempt to purchase a ticket to any activity, ceremony or other event.

Maximum penalty—10 penalty units.

### 19 Removal of equipment used for prohibited activities

- (1) A person who uses equipment in the course of committing an offence under clause 18 must, when directed to do so by a relevant authority, immediately remove the equipment from the Trust lands.

Maximum penalty—10 penalty units.

- (2) If a person fails to comply with a direction under this clause, a relevant authority may remove the equipment—
  - (a) to the care of the person to whom the direction was given, or
  - (b) to a place of safe keeping at the expense of the owner or the person responsible for it.
- (3) A relevant authority acting under subclause (2) is not responsible for the safe keeping of, or for any damage to, equipment removed under this clause.

### 20 Organising and conducting races

A person must not on the Trust lands, except with the written permission of, and in the manner approved by, the Trust or the Executive Director, organise or conduct a foot race, bicycle race, horse race, wheelchair race, fun run, rollerblade run or similar event, whether or not the race or event is conducted for profit.

Maximum penalty—10 penalty units.

### 21 Weddings and organised ceremonies

- (1) The Trust may from time to time designate an area on the Trust lands—
  - (a) where persons may get married or conduct an organised ceremony without the written consent of the Trust and without paying a fee, and

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Part 4 Commercial and public activities on Trust lands

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- (b) where persons may get married or conduct an organised ceremony, but only with the written consent of the Trust and on payment of a fee determined by the Trust.
- (2) A person must not do any of the following on the Trust lands—
- (a) get married in a part of the Trust lands not designated for that activity under subclause (1)(a),
  - (b) get married in a part of the Trust lands designated under subclause (1)(b) without the written permission of the Trust or payment of the fee determined by the Trust,
  - (c) conduct an organised ceremony other than a wedding in a part of the Trust lands not designated for that activity under subclause (1)(a),
  - (d) conduct an organised ceremony other than a wedding in a part of the Trust lands designated under subclause (1)(b) without the written permission of the Trust or payment of the fee determined by the Trust.

Maximum penalty—10 penalty units.

## Part 5 Recreational activities on Trust lands

### 22 Recreational activities

A person must not do any of the following on the Trust lands, except with the written permission of, and in the manner approved by, the Trust or the Executive Director—

- (a) play or practise golf,
- (b) fish in the ponds of the Gardens, in the waters of Sydney Harbour from the Gardens or in a part of the Domain that has not been designated for fishing under clause 8,
- (c) practise or demonstrate (using a fishing rod or line) the casting of a fishing line,
- (d) bathe, wade, wash or swim, or operate a boat, canoe, kayak or any other water craft, vessel or flotation device, in any lake, pond, stream or other watercourse or ornamental water,
- (e) use a land sailing vehicle,
- (f) fly a kite except in an area designated for that activity under clause 8,
- (g) operate a motorised model aircraft, boat, car, drone, or any similar thing,
- (h) operate or attempt to operate a hang-glider,
- (i) launch or land an aircraft, helicopter, airship, hot air balloon or parachute,
- (j) use a metal detector or any apparatus for the detecting of metal objects,
- (k) set up or discharge fireworks,
- (l) use a starting pistol except in an area designated under clause 8 for an activity that involves the use of a starting pistol,
- (m) throw or propel by any means a javelin, shot put, sharp instrument or other object that is likely to cause damage or injury to any person, animal or thing,
- (n) erect a tent, marquee or similar structure except in an area designated under clause 8,
- (o) enter land that is situated within any lake, pond or stream or in any ornamental water,
- (p) conduct, or participate in, any game or other activity in a manner that unduly interferes with the amenity of the area.

Maximum penalty—10 penalty units.

### 23 Use of bicycles, skateboards and rollerblades

- (1) A person must not do any of the following on the Trust lands, except with the written permission of, and in the manner approved by, the Trust or the Executive Director—
  - (a) ride a bicycle, segway, hoverboard, scooter or skateboard, or use rollerblades, except in an area designated for that activity under clause 8,
  - (b) ride a bicycle, scooter or skateboard, or use rollerblades, without wearing a protective helmet,
  - (c) ride a bicycle or skateboard, or use rollerblades—
    - (i) alongside 2 or more persons, or
    - (ii) closer than 3 metres behind, or while holding onto, a moving motor vehicle (that is, slipstreaming), or
    - (iii) in a group of more than 16 persons,

- (d) ride a bicycle or skateboard, or use rollerblades, on an area in which the activity is prohibited by the Trust or the Executive Director by a sign displayed on or near the area.

Maximum penalty—10 penalty units.

- (2) For the purposes of subclause (1)(e), holding onto a moving motor vehicle includes being towed behind the motor vehicle by means of a rope or similar item.
- (3) In this clause—  
*bicycle* includes a motor-assisted bicycle but does not include a motorcycle.  
*rollerblades* include rollerskates.

## 24 Camping and erection of tents and structures

- (1) A person must not on the Trust lands, except with the written permission of, and in the manner approved by, the Trust or the Executive Director—

- (a) camp or reside, or
- (b) erect or occupy, or cause to be erected or occupied, a building, tent, screen, awning, enclosure or other structure or thing.

Maximum penalty—10 penalty units.

- (2) A person who erects or occupies, or causes to be erected or occupied, a building, tent, screen, awning, enclosure or other structure or thing contrary to this clause must, when directed to do so by a relevant authority, immediately remove the building, tent, screen, awning, enclosure or other structure or thing.

Maximum penalty—10 penalty units.

- (3) If a person fails to comply with a direction given under this clause, a relevant authority may remove, or cause to be removed, the building, tent, screen, awning, enclosure or other structure or thing—

- (a) to the care of the person to whom the direction was given, or
- (b) to a place of safe keeping at the expense of the owner or the person responsible for it.

- (4) A relevant authority acting under this clause is not responsible for the safe keeping of, or for any damage to, a building, tent, screen, awning, enclosure or other structure or thing removed under this clause.

## 25 Personal training

A person must not do any of the following, except with the written permission of, and in the manner approved by, the Trust or the Executive Director—

- (a) conduct a fitness assessment, exercise class, personal training session or other exercise program in the Gardens or the Domain, except in an area designated for that activity under clause 8,
- (b) use any exercise equipment in the Gardens,
- (c) leave any exercise equipment unattended on Trust lands for more than 1 hour.

Maximum penalty—10 penalty units.

## 26 Jogging or running in the Gardens

A person must not do either of the following in the Gardens, except with the written permission of the Trust or the Executive Director—

- (a) jog or run other than on a road, path or specifically designed circuit,
- (b) jog or run in a group of more than 10 persons.

Maximum penalty—10 penalty units.

**27 Throwing, kicking or hitting balls**

- (1) A person must not throw, kick or hit any ball or other object in the Domain, except with the written permission of the Trust or the Executive Director, or if the person does so in the course of, and as a normal incident of—
- (a) an organised activity on any part of the Domain that is for the time being used for an organised activity under clause 8, or
  - (b) an informal game or sporting activity that is not likely to endanger the safety of other persons.

Maximum penalty—10 penalty units.

- (2) A person must not throw, kick or hit any ball or other object in the Gardens without the written permission of the Trust or the Executive Director.

Maximum penalty—10 penalty units.

## Part 6 Offensive and dangerous conduct on Trust lands

### 28 Personal conduct

A person must not on the Trust lands do any of the following—

- (a) use indecent, obscene, insulting or threatening language,
- (b) behave in an offensive or indecent manner,
- (c) cause serious alarm or affront to a person by disorderly or unsafe conduct,
- (d) obstruct a person in the performance of that person's work or duties under the Act.

Maximum penalty—10 penalty units.

### 29 Failure to comply with direction

A person must not on the Trust lands fail to comply with a reasonable direction given for the purpose of securing the good order, security and safety, management and enjoyment of the Trust lands given—

- (a) by a relevant authority, verbally to the person concerned, or
- (b) by the Trust or the Executive Director, in writing (generally or to the person concerned) or by means of a sign displayed on or adjacent to the land concerned.

Maximum penalty—10 penalty units.

### 30 Addressing public gatherings

- (1) A person must not, during the relevant period, address a public function, public meeting, public demonstration or other public gathering on the Trust lands except—
  - (a) with the written permission of, and in the manner approved by, the Trust or the Executive Director, or
  - (b) in an area designated for that activity under clause 8.

Maximum penalty—10 penalty units.

- (2) In this clause—

*relevant period* means—

- (a) in the case of the Gardens—at all times, and
- (b) in the case of the Domain—before sunrise or after sunset.

### 31 Causing noise

A person must not do any of the following on the Trust lands, except with the written permission of, and in the manner approved by, the Trust or the Executive Director—

- (a) operate a radio or other electronic device that emits sound, at a volume likely to cause nuisance or annoyance to a person,
- (b) play a musical instrument in circumstances where it is likely to cause a disturbance or annoyance or interfere with the amenity of the Trust lands,
- (c) operate a public address system or similar device,
- (d) sound, or cause or allow to be sounded, a vehicle intruder alarm or sounding device continuously or intermittently for more than 90 seconds after the alarm or device has first sounded.

Maximum penalty—10 penalty units.



## 32 Causing damage

- (1) A person must not do any of the following on the Trust lands, except with the written permission of, and in the manner approved by, the Trust or the Executive Director—
- (a) damage a lawn, playing field or green except in the course of, and as a normal incident of, recreational or sporting activity on any part of the Trust lands designated for use for that activity under clause 8,
  - (b) remove, uproot, damage, remove a part from, or otherwise interfere with, a tree, shrub, fern, creeper, vine, palm, plant or other vegetation,
  - (c) plant, or attempt to plant, a tree or other vegetation,
  - (d) remove any timber, log or stump, standing or fallen,
  - (e) bring in, deface, dig up or remove any rock, soil, sand, stone or similar substance,
  - (f) damage, deface, interfere with, destroy or remove any part of the Trust lands or any thing situated on the Trust lands (including signs, machinery or equipment),
  - (g) damage, deface or interfere with a road or path,
  - (h) climb on any tree, building, fence, seat, table, enclosure, sculpture, statue, monument or fountain or other structure (other than play equipment),
  - (i) block or inhibit (whether wholly or partially) access through, to or on a gate, access-way, path or road,
  - (j) pass through or step over any temporary or permanent fencing or any barricade regulating access to any part of the Trust lands by foot or vehicle,
  - (k) light a fire—
    - (i) at a time when the lighting of fires on the Trust lands is prohibited by the Trust or the Executive Director by signs displayed on or near the Trust lands or a time when the lighting of fires in the area in which the Trust lands are situated is prohibited by or under the provisions of the *Rural Fires Act 1997*, or
    - (ii) at any other time except in a fireplace or on equipment provided for the purpose by the Trust or in portable cooking equipment,
  - (l) use a drinking fountain or a toilet block for a purpose other than its intended purpose,
  - (m) deposit any oil, hot liquid or similar product, or any ice or frozen liquid, onto any ground or vegetation,
  - (n) empty coals or embers from a barbecue onto any ground or vegetation,
  - (o) deposit or throw any article or substance into any lake, pond, stream or other watercourse or ornamental water,
  - (p) bring in any waste (including refuse, rubbish or industrial waste),
  - (q) leave any waste, except in a receptacle provided for the purpose,
  - (r) in the case of the Gardens—moor a boat to the sea wall in the Royal Botanic Garden Sydney.
- Maximum penalty—10 penalty units.
- (2) Subclause (1)(h) does not prevent a child from climbing in any part of the Trust lands in which the Trust has directed that climbing is permissible.
- (3) Subclause (1)(r) does not apply in the case of an emergency.

### **33 Affixing items to trees or structures**

A person must not on the Trust lands, except with the written permission of, and in the manner approved by, the Trust or the Executive Director, affix any thing (including any sign, hoarding, tape, bicycle or exercise equipment) to a tree, plant or protected structure.

Maximum penalty—10 penalty units.

### **34 Entering Trust lands while intoxicated or in possession of prohibited things**

- (1) The Trust may prohibit any person from entering the Trust lands—
  - (a) if the person is in possession of any specified thing, or
  - (b) if, in the opinion of an authorised person, the person is or appears to be intoxicated.
- (2) The Trust may take action under this clause by means of a direction or the display of a sign.
- (3) A person must not do anything in contravention of a direction given or sign displayed under this clause.  
Maximum penalty—10 penalty units.
- (4) Nothing in this clause limits any other function of the Trust under this Regulation.

### **35 Consuming or possessing liquor**

- (1) The Trust or the Executive Director may prohibit the consumption of liquor (at any time or at a particular time) on the Trust lands or in any building on the Trust lands.
- (2) The Trust or the Executive Director may prohibit persons from being in possession of liquor on the Trust lands during the conduct of an activity that is—
  - (a) promoted, organised or conducted by or on behalf of the Trust or by a licensee of the Trust, and
  - (b) conducted in a fenced-off part of the Trust lands.
- (3) The Trust or the Executive Director may take action under this clause by means of a direction or the display of a sign.
- (4) A person must not consume or possess liquor on any part of the Trust lands, or in any building on the Trust lands, in contravention of a direction given or sign displayed under this clause, except with the written permission of, and in the manner approved by, the Trust or the Executive Director.  
Maximum penalty—10 penalty units.
- (5) A person is not guilty of an offence under subclause (4) in respect of the consumption of liquor unless it is established that—
  - (a) on the day of the contravention, an authorised person warned the person that the consumption of liquor was prohibited on the Trust lands or building concerned, and
  - (b) the person commenced to consume, continued to consume or resumed the consumption of liquor in contravention of the prohibition after the warning was given.

### **36 Carrying or possessing firearms**

- (1) A person must not do any of the following on the Trust lands, except with the written permission of, and in the manner approved by, the Trust or the Executive Director—

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Part 6 Offensive and dangerous conduct on Trust lands

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- (a) have in the person's possession (otherwise than on a public road), or discharge, any firearm or imitation firearm within the meaning of the *Firearms Act 1996*,
- (b) have in the person's possession any prohibited weapon within the meaning of the *Weapons Prohibition Act 1998*.

Maximum penalty—10 penalty units.

- (2) This clause does not apply to—
  - (a) a police officer of the State or the Commonwealth who is acting in the ordinary course of the person's duties as a police officer, or
  - (b) a person who is the holder of a licence under the *Security Industry Act 1997*, who is carrying out functions authorised by the licence and is the holder of the relevant licence or permit under the *Firearms Act 1996* or the *Weapons Prohibition Act 1998*.
- (3) This clause does not affect any requirement imposed by or under the *Firearms Act 1996* or the *Weapons Prohibition Act 1998*.

## Part 7 Animals on Trust lands

### 37 Bringing animals into Trust lands

- (1) A person must not bring an animal into the Gardens, except with the written permission of, and in the manner approved by, the Trust or the Executive Director.  
Maximum penalty—10 penalty units.
- (2) A person must not bring into the Domain—
  - (a) an animal (other than stock), unless the animal is kept under the effective control of a competent person by means of an adequate chain, cord, leash or cage, or
  - (b) stock (including a horse), except with the written permission of, and in the manner approved by, the Trust or the Executive Director.Maximum penalty—10 penalty units.

### 38 Bringing dogs into prohibited areas

- (1) A person must not bring or allow a dog for which the person is responsible into an area of the Domain that is designated as an area in which dogs are prohibited by a sign displayed on or near the area, except with the written permission of, and in the manner approved by, the Trust or the Executive Director.  
**Note.** Section 14(1)(a) and (b) of the *Companion Animals Act 1998* provides that dogs are prohibited from children's play areas (being any area in a public place that is within 10 metres of any playing apparatus provided for the use of children) and food preparation/consumption areas (being any area in a public place that is within 10 metres of any apparatus provided for the preparation of food for human consumption or for the consumption of food by humans).  
Maximum penalty—10 penalty units.
- (2) This clause does not prohibit a person who has a disability (within the meaning of the *Disability Discrimination Act 1992* of the Commonwealth) from bringing an assistance animal (that is, an animal referred to in section 9 of that Act) into the Trust lands or permitting an assistance animal to remain in the Trust lands.

### 39 Harming animals

- (1) A person must not do any of the following on the Trust lands, except with the written permission of, and in the manner approved by, the Trust—
  - (a) be in possession of a trap or device for the hunting or capturing of animals,
  - (b) destroy, capture, injure or annoy an animal,
  - (c) destroy or interfere with the habitat of an animal.Maximum penalty—10 penalty units.
- (2) Subclause (1)(b) and (c) do not prohibit a person from fishing in or from the Trust lands in accordance with the written consent of, and in the manner approved by, the Trust.

### 40 Other prohibitions relating to animals on Trust lands

- A person must not do any of the following on the Trust lands, except with the written permission of, and in the manner approved by, the Trust—
- (a) allow an animal to bathe, wash or swim in any lake, pond, stream or ornamental water,
  - (b) tie or tether an animal to a tree, plant or protected structure,
  - (c) lead a dog from a moving vehicle,
  - (d) abandon an animal (whether alive or dead),

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- (e) fail to remove and properly dispose of any faeces deposited by an animal for which the person is responsible.
- Maximum penalty—10 penalty units.

## Part 8 Miscellaneous

### 41 Fees

- (1) The Trust may from time to time determine the fees that are payable for using the Trust lands in accordance with a permission granted by the Trust or the Executive Director.
- (2) The Trust may require payment of the fee by a date specified by the Trust (including a date in advance of the date of the relevant use).
- (3) The person to whom the permission is granted is liable to the Trust for payment of the fee.
- (4) Any unpaid fee may be recovered by the Trust from the person liable to pay it as a debt in a court of competent jurisdiction.
- (5) The Trust may reduce, or waive payment of, a fee payable under this clause.
- (6) The Trust may accept, or determine, consideration in kind in lieu of a fee under this clause.

### 42 Conditions attaching to permission to use Trust lands

- (1) The Trust or the Executive Director may give a permission under this Regulation subject to any conditions the Trust or the Executive Director considers appropriate.
- (2) Conditions may relate to, but are not limited to, the following matters—
  - (a) the period within which any fee payable is to be paid,
  - (b) the necessary standard of care of the Trust lands,
  - (c) maintenance of adequate insurance,
  - (d) site preparation,
  - (e) provision and disposal of food and beverages,
  - (f) advertising, signage and merchandising,
  - (g) vehicle access, control and parking,
  - (h) security and emergency procedures,
  - (i) crowd management,
  - (j) cleaning and waste management services,
  - (k) noise control,
  - (l) erection and removal of temporary structures.
- (3) The Trust or the Executive Director may require a person to whom a permission under this Regulation is proposed to be given to give security in any amount and form as the Trust or the Executive Director determines for fulfilment of the person's obligations under the conditions of that permission.
- (4) A person who fails to comply with a condition to which a permission is subject is guilty of an offence.  
Maximum penalty—10 penalty units.

### 43 Requirement to state name and address

- (1) An authorised person who suspects on reasonable grounds that a person on the Trust lands has committed an offence against the Act or this Regulation may require the person to state the person's full name and residential address.
- (2) A person must not—

- (a) fail without reasonable excuse to comply with a requirement under this clause, or
- (b) in purported compliance with the requirement, give information that the person knows to be false or misleading in a material particular.

Maximum penalty—10 penalty units.

- (3) A person is not guilty of an offence under this clause unless it is established that the authorised person—
  - (a) identified themselves as an authorised person, and
  - (b) warned the person that failure to comply with the requirement or giving false information is an offence.

#### **44 Directions given by Trust**

- (1) A reference in this Regulation to a direction given by the Trust includes a reference to a direction given verbally by an employee of the Trust, or an authorised person, who is authorised by the Trust to give directions under this Regulation.
- (2) A person is not guilty of an offence of failing to comply with a direction given verbally by an employee of the Trust, an authorised person or the Executive Director unless it is established that the person who gave the direction—
  - (a) identified themselves as an employee of the Trust, an authorised person or the Executive Director, and
  - (b) warned the person that a failure to comply with the direction is an offence, and
  - (c) showed identification as a person authorised to give the direction (if asked to do so).

#### **45 Staff and authorised persons**

- (1) Nothing in this Regulation prevents an authorised person from doing, in the exercise of the authorised person's functions under the Act, any act or thing the doing of which is otherwise prohibited by this Regulation.
- (2) This clause does not, however, authorise any authorised person (other than a police officer) to possess a firearm (within the meaning of the *Firearms Act 1996*) while on the Trust lands except with the written permission of the Trust or the Executive Director.
- (3) An act or omission does not constitute an offence under this Regulation if it is done by a member of staff of the Trust, or authorised person exercising functions under the Act, in the course of the person's employment.

#### **46 Lessees and licensees**

An act or omission does not constitute a contravention of this Regulation, despite any other provision of this Regulation, if the act or omission is authorised expressly or impliedly by the terms or conditions of any lease or licence granted by the Trust or of any agreement entered into by the Trust.

#### **47 Prescribed officer**

For the purposes of section 22A(2)(a) of the Act, the Executive Director is a prescribed officer.

#### **48 Regulation not to limit other statutory provisions or functions**

This Regulation does not limit—

- (a) any provision of or made under an Act that applies to conduct on the Trust lands, or
- (b) any function exercisable by the Trust as the owner of the Trust lands.

**49 Saving**

Any act, matter or thing that, immediately before the repeal of the *Royal Botanic Gardens and Domain Trust Regulation 2013*, had effect under that Regulation continues to have effect under this Regulation.



## Schedule 1 Penalty notice offences

### 1 Application of Schedule

- (1) For the purposes of section 22B of the Act—
  - (a) each offence created by a provision specified in this Schedule is an offence for which a penalty notice may be issued, and
  - (b) the amount payable for the penalty notice is the amount specified opposite the provision.
- (2) If the provision is qualified by words that restrict its operation to limited kinds of offences or to offences committed in limited circumstances, the penalty notice may be issued only for—
  - (a) that limited kind of offence, or
  - (b) an offence committed in those limited circumstances.
- (3) For the purposes of section 22B(1) of the Act, the Executive Director and an authorised person are prescribed as an officer in relation to each offence specified in this Schedule.

| <b>Column 1</b>   | <b>Column 2</b> |
|---|-----------------|
| <b>Provision</b>  | <b>Penalty</b>  |
| <b>Offences under this Regulation</b>                                       |                 |
| Clause 4(3)   | \$150           |
| Clause 5(1)   | \$150           |
| Clause 6(3)—other than in respect of a contravention of a verbal direction  | \$150           |
| Clause 7(2)   | \$150           |
| Clause 9(5)   | \$150           |
| Clause 10(3)—other than in respect of a contravention of a verbal direction | \$150           |
| Clause 11(2)  | \$150           |
| Clause 12(2)  | \$150           |
| Clause 13(3)  | \$150           |
| Clause 14(2)  | \$275           |
| Clause 15(3)  | \$150           |
| Clause 16(a) and (b)  | \$150           |
| Clause 16(c)  | \$275           |
| Clause 18(a), (b) and (d)–(j)   | \$500           |
| Clause 18(c)  | \$1,100         |
| Clause 19(1)  | \$150           |
| Clause 20   | \$500           |
| Clause 21(2)  | \$1,100         |
| Clause 22   | \$150           |
| Clause 23(1)  | \$150           |

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Schedule 1 Penalty notice offences

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| <b>Column 1</b>   | <b>Column 2</b> |
|---|-----------------|
| <b>Provision</b>  | <b>Penalty</b>  |
| <b>Offences under this Regulation</b>                                       |                 |
| Clause 24(1)  | \$150           |
| Clause 24(2)  | \$150           |
| Clause 25(a)  | \$750           |
| Clause 25(b) and (c)  | \$150           |
| Clause 26   | \$150           |
| Clause 27   | \$150           |
| Clause 29—other than in respect of a contravention of a verbal direction    | \$500           |
| Clause 30(1)  | \$275           |
| Clause 31(a) and (c)  | \$500           |
| Clause 31(b) and (d)  | \$150           |
| Clause 32(1)(a)–(g), (k) and (n)  | \$500           |
| Clause 32(1)(h)–(j), (l)–(m) and (o)–(r)                                    | \$150           |
| Clause 33   | \$150           |
| Clause 34(3)—other than in respect of a contravention of a verbal direction | \$150           |
| Clause 35(4)—other than in respect of a contravention of a verbal direction | \$275           |
| Clause 36(1)  | \$500           |
| Clause 37   | \$275           |
| Clause 38(1)  | \$350           |
| Clause 39(1)  | \$500           |
| Clause 40(a)–(c) and (e)  | \$275           |
| Clause 40(d)  | \$500           |
| Clause 42(4)  | \$1,100         |