

# Parramatta Park Trust Act 2001 No 17

[2001-17]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**  
*Statute Law (Miscellaneous Provisions) Act 2015 No 15* (not commenced — to commence on 15.7.2015)

### Authorisation

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# Parramatta Park Trust Act 2001 No 17



New South Wales

An Act to constitute the Parramatta Park Trust and define its functions; to vest certain lands at Parramatta in the Trust; and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Parramatta Park Trust Act 2001*.

### 2 Commencement

This Act commences on a day or days to be appointed by proclamation.

### 3 Definitions

(1) In this Act:

**additional trust lands** means lands (other than the principal trust lands) acquired by the Trust.

**authorised officer** means:

(a) a police officer, or

(b) a person who is appointed for the time being by the Director as an authorised officer for the purposes of the provision in which the expression is used, or

(c) a person (or person belonging to a class or description of persons) prescribed by the regulations.

**Director** means the person holding office, or duly acting, as Director of Parramatta Park.

**exercise** a function includes perform a duty.

**former Trust** means the Parramatta Regional Park Trust established under the *National Parks and Wildlife Act 1974*.

**function** includes a power, authority or duty.

**principal trust lands** means the lands for the time being described in Part 1 of Schedule 1.

**Trust** means the Parramatta Park Trust constituted by this Act.

**trust lands** means the principal trust lands and the additional trust lands.

**trustee** means a trustee referred to in section 5.

(2) Notes included in this Act are explanatory notes and do not form part of this Act.

## **Part 2 The Parramatta Park Trust**

### **4 Constitution of the Trust**

(1) There is constituted by this Act a corporation under the corporate name of the "Parramatta Park Trust".

(2) The Trust:

- (a) has and may exercise the functions conferred or imposed on it by or under this or any other Act, and
- (b) is, for the purposes of any Act, a statutory body representing the Crown, and
- (c) is, in the exercise of its functions, subject to the control and direction of the Minister.

### **5 Appointment and procedure of trustees**

(1) The Trust consists of 7 trustees appointed by the Minister.

(2) Schedule 2 has effect with respect to the trustees.

(3) Schedule 3 has effect with respect to the procedure of the Trust.

## **Part 3 Objects and functions of the Trust**

### **6 Objects of the Trust**

The objects of the Trust are:

- (a) to maintain and improve the trust lands, and
- (b) to encourage the use and enjoyment of the trust lands by the public by promoting the recreational, historical, scientific, educational and cultural heritage value of those lands, and
- (c) to ensure the conservation of the natural and cultural heritage values of the trust lands and the protection of the environment within those lands, and

- (d) such other objects, consistent with the functions of the Trust in relation to the trust lands, as the Trust considers appropriate.

## **7 Functions of the Trust**

- (1) The Trust may:

- (a) permit the use of the whole or any part of the trust lands for activities of a recreational, historical, scientific, educational and cultural heritage nature, and
- (b) in or in connection with the trust lands provide, or permit the provision of, food or other refreshments and apply for, hold or dispose of any relevant licence, permit or other authority for that purpose, and
- (c) promote and provide exhibits, lectures, films, publications and other types of educational instruction relating to the trust lands, and
- (d) in pursuance of its objects, procure specimens, services or materials and obtain scientific or other data from within or outside the State, and
- (e) disseminate scientific, cultural and historical information to the public and educational, scientific, cultural and historical institutions, whether within or outside the State, and
- (f) maintain, or make arrangements for the maintenance of, the property of the Trust, and
- (g) subject to the regulations, charge and receive fees or other amounts for, or in connection with, any service provided, article sold or permission given by the Trust in the exercise of any of its functions, and
- (h) enter into any contract or arrangement with any person for the purpose of promoting the objects of the Trust.

- (2) Subject to this Act and the regulations, the Trust has the control and management of all property of the Trust.

- (3) The fees and other amounts received by the Trust as referred to in subsection (1) (g) are the property of the Trust.

- (4) The Trust may, and when requested by the Minister must, make reports and recommendations to the Minister with respect to the Trust and the trust lands.

- (5) The Trust has and may exercise such functions, in addition to those specified in this section, as are reasonably necessary to achieve its objects.

- (6) However, the Trust cannot employ any staff.

**Note—**

Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Trust to exercise its functions.

## **Part 4 Property of the Trust**

### **8 Vesting of principal trust lands at Parramatta in the Trust**

- (1) The land described in Part 1 of Schedule 1 vests in the Trust for an estate in fee simple subject to any trusts, estates, interests, dedications, restrictions, easements, contracts, charges and rates (other than those referred to in Part 2 of that Schedule) existing in respect of the land immediately before the land is vested in the Trust.
- (2) The land described in Part 1 of Schedule 1 is freed and discharged from any trusts, estates, interests, dedications, restrictions, easements, contracts, charges and rates referred to in Part 2 of Schedule 1.
- (3) The Governor may from time to time, by proclamation published on the NSW legislation website, amend Part 1 of Schedule 1 for the purpose of adding to the land for the time being described in Part 1 of that Schedule:
  - (a) Crown land (within the meaning of the *Crown Lands Act 1989*) or other land of the Crown, or
  - (b) land of a public or local authority constituted by an Act of Parliament, or
  - (c) additional trust lands.
- (4) The Governor may from time to time, by proclamation published on the NSW legislation website, amend Part 2 of Schedule 1 for the purpose of adding any trusts, estates, interests, dedications, restrictions, easements, contracts, charges and rates to those for the time being described in Part 2 of that Schedule.
- (5) A proclamation under this section may contain provisions of a savings or transitional nature consequent on the making of the proclamation (including provisions conferring on the Trust rights and liabilities in respect of trusts, estates, interests, dedications, restrictions, easements, contracts, charges and rates added to Part 2 of Schedule 1).
- (6) The vesting of land effected by this section does not operate to vest in the Trust any pipeline, cable or related apparatus owned by a person other than the Minister or the former Trust and used for the conveyance of gas, electricity, water, drainage, sewage or any other thing and lawfully situated on the land immediately before the commencement of this section.
- (7) If an interest in land of a person (other than a public or local authority) is divested by its addition to Part 2 of Schedule 1:
  - (a) compensation is payable for the divesting of that interest, and



(b) Part 3 of the *Land Acquisition (Just Terms Compensation) Act 1991* applies as if a proclamation adding an interest in land to Part 2 of Schedule 1 published under subsection (4) were an acquisition notice published by the Trust under that Act.

(8) In subsection (7):

**interest** in land has the same meaning as in the *Land Acquisition (Just Terms Compensation) Act 1991*.

## **9 Prohibition against disposal or compulsory acquisition of principal trust lands**

- (1) The Trust must not sell, mortgage or otherwise dispose of any of the principal trust lands.
- (2) Despite any other Act, the principal trust lands may not be compulsorily acquired except by an Act of Parliament.
- (3) This section does not affect the operation of section 12 (Grant of leases, easements, licences etc) or section 13 (Further provision for leases and licences of certain trust lands).

## **10 Acquisition of certain other property**

- (1) The Trust may agree to any condition that is not inconsistent with its objects being imposed on its acquisition of any property.
- (2) The rule of law against remoteness of vesting does not apply to any such condition to which the Trust has agreed.
- (3) If the Trust acquires any property by gift, devise or bequest, the Trust may retain the property in the form in which it was acquired, subject to any such condition to which the Trust has agreed.
- (4) Duty under the *Duties Act 1997* is not chargeable for or in respect of any gift, devise or bequest made or to be made to the Trust.

## **11 Disposal of certain other property**

(1) In this section:

**condition** means a condition to which the Trust has agreed under section 10.

- (2) The Trust must not sell, mortgage or otherwise dispose of any property acquired by gift, devise or bequest, or any property being additional trust lands, except:
  - (a) if the property was acquired without any condition—with the approval of the Minister, or
  - (b) if the property was acquired subject to a condition—in accordance with the condition or subsection (3).

- (3) If the Trust determines that any property that has been acquired by the Trust subject to a condition is not required for the purposes of the Trust, the Trust may (despite that condition), with the approval of the Minister:
  - (a) sell the property, or
  - (b) exchange the property for other property, or
  - (c) give the property to any recreational, scientific or educational institution, or
  - (d) if the Trust is of the opinion that the property is of no commercial value—dispose of the property without valuable consideration.

## **12 Grant of leases, easements, licences etc**

- (1) The Trust may, with the approval of the Minister, grant:
  - (a) leases of parts of the trust lands, or
  - (b) easements through, on or in the trust lands, or
  - (c) licences for the use of parts of the trust lands.
- (2) The Trust may, with the approval of the Minister, impose restrictions on the use of, or impose positive covenants on, trust lands or other lands in accordance with section 88D or 88E of the *Conveyancing Act 1919*.
- (3) A lease granted under subsection (1) (a) may not have a term that, together with the term of any further lease which may be granted on the exercise of an option contained in the lease, exceeds 10 years.
- (4) In this section, **easement** includes an easement without a dominant tenement referred to in section 88A of the *Conveyancing Act 1919*.

## **13 Further provision for leases and licences of certain trust lands**

- (1) Despite section 12 (3), the Trust may, with the approval of the Minister, grant a lease in respect of any of the following parts of the trust lands for any term that, together with the term of any further lease that may be granted on the exercise of an option contained in the lease, does not exceed 50 years:
  - (a) such part of the trust lands as was vested by the *National Parks and Wildlife (Parramatta Regional Park) Act 1998*, immediately before the repeal of that Act, in the Minister administering the *National Parks and Wildlife Act 1974* in that Minister's capacity as a corporation sole,
  - (b) such part of the trust lands as was, immediately before the commencement of this section, used for the purposes of, or for purposes connected with, the operation and maintenance of the swimming pool known as the Parramatta War Memorial

Swimming Centre, together with such other parts of those lands as may be reasonably necessary for the purposes of the operation and maintenance of that pool.

- (2) The Minister is to consult the Treasurer in relation to:
- (a) the use to which the land referred to in subsection (1) is to be put under a future lease or licence, and
  - (b) the terms and conditions of any proposed lease, or licence for the use of, that land.
- (3) The Trust must not:
- (a) call for expressions of interest in the use, under a future lease or licence, of the land referred to in subsection (1), or
  - (b) grant a lease, or a licence for the use, of that land,
- unless the Minister has consulted the Treasurer (as required by subsection (2)) in relation to the proposed use of the land, or the proposed lease or licence concerned.
- (4) Further, the Trust must not grant a lease of any land referred to in subsection (1) unless:
- (a) it has given public notice of the proposed lease in accordance with subsections (5) and (6), and
  - (b) it has considered any submissions duly made to it under subsection (7), and
  - (c) it has given to the Minister, when seeking the Minister's approval of the terms and conditions of the proposed lease, copies of any submissions objecting to the proposed lease.
- (5) The Trust must:
- (a) give public notice of a proposed lease by means of a notice published in a newspaper circulating generally in New South Wales, and
  - (b) exhibit notice of the proposed lease on the trust lands concerned.
- (6) A notice of a proposed lease must include the following:
- (a) information sufficient to identify the trust lands concerned,
  - (b) the purpose for which the trust lands will be used under the proposed lease,
  - (c) the term of the proposed lease (including particulars of any options for renewal),
  - (d) the name of the person to whom it is proposed to grant the proposed lease (if

known),

(e) a statement that submissions in writing concerning the proposed lease may be made to the Trust during the period (which must be at least 28 days) specified in the notice.

(7) Any person may make a submission in writing to the Trust during the period specified for the purpose in the notice.

(8) It is sufficient compliance with subsection (2) if the Minister:

(a) notifies the Treasurer in writing of:

(i) any proposed use of the land concerned under a future lease or licence, and

(ii) the terms and conditions of any proposed lease, or licence for the use, of that land, and

(iii) if copies of any submissions relating to a proposed lease of that land have been given to the Minister under subsection (4) (c)—the substance of those submissions, and

(b) takes into consideration any comments received from the Treasurer within 28 days after the notification is given.

#### **14 Requirements relating to grant of licence or easement**

(1) No later than 3 months after the commencement of this section, the Trust must publish on an Internet site maintained by the Trust a statement that:

(a) outlines the criteria by which the Trust assesses proposals or requests for grants of licences for the use of, or easements through, on or in, trust lands, and

(b) states that any person may, at any time, make a submission in writing to the Trust in relation to those criteria, and

(c) specifies the number of licences and easements granted by the Trust during the immediately preceding financial year, categorised according to their purpose and impact on Trust lands and (additionally, in the case of licences) their duration.

(2) The statement must be permanently available on the Internet and a written copy of the statement must be permanently available for inspection by the public at the offices of the Trust during ordinary business hours.

(3) The Trust may update the statement as it sees fit, and must update it at least once in every financial year.

(4) In updating the statement, the Trust must take into consideration any submissions received.

## **Part 5 Plan of management for trust lands**

### **15 Preparation of plan of management**

- (1) The Trust must, in accordance with any directions of the Minister, cause a plan of management to be prepared for the trust lands.
- (2) The plan of management must contain a detailed written scheme of the operations proposed to be undertaken in or in relation to the trust lands.

### **16 Adoption etc of plan of management**

- (1) When the plan of management has been prepared, the Trust:
  - (a) must refer the plan to the Minister, and
  - (b) may, with the approval of the Minister, refer a copy of the plan to any other person.
- (2) The Minister may:
  - (a) adopt the plan of management, without alteration or with such alterations as the Minister thinks fit, or
  - (b) refer it back to the Trust for further consideration.

### **17 Amendment or cancellation of plan of management**

- (1) The Trust may, in accordance with any directions of the Minister:
  - (a) amend the plan of management from time to time, or
  - (b) cancel the plan of management and substitute a new plan.
- (2) Sections 15 and 16 apply to an amendment of the plan of management or the substitution of the plan of management in the same way as they apply to the preparation of the plan of management.

### **18 Carrying out of plan of management**

- (1) A plan of management adopted by the Minister is to be carried out and given effect to by the Trust.
- (2) Nothing in this Part affects the operation of the [Local Government Act 1993](#) or the [Environmental Planning and Assessment Act 1979](#).

## **Part 6 Administration**

### **19 Financial year of the Trust**

The financial year of the Trust is the year commencing 1 July.

## 20 Committees

- (1) The Trust may establish committees to assist it in connection with the exercise of any of its functions.
- (2) It does not matter that any or all of the members of a committee are not trustees.
- (3) The Director is an ex officio member of each committee of the Trust.
- (4) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is, subject to the regulations, to be as determined by the Trust or (subject to any determination of the Trust) by the committee.

## 21 (Repealed)

## 22 The Director

- (1) The Director is responsible for the administration and management of the trust lands and any services provided in conjunction with the trust lands.
- (2) The Director is, in the exercise of the Director's functions under this Act, subject to the control and direction of the Trust.
- (3) The Director is to act as secretary to the Trust.

## 23 Delegation by the Trust

- (1) The Trust may delegate to a trustee, a committee of the Trust or the Director or any other officer of the Trust the exercise of any of its functions, other than this power of delegation.
- (2) The person may sub-delegate the exercise of a delegated function to another person if the first-mentioned person is authorised in writing to delegate the function to that person by the Trust.

## Part 7 Miscellaneous

### 24 Revocation of reservation

The reservation of Parramatta Regional Park as a regional park under the *National Parks and Wildlife Act 1974* is revoked.

**Note—**

Parramatta Regional Park was reserved as a regional park by notice published in the Gazette on 12 September 1997.

### 25 Act not to affect Parramatta Rail Link

- (1) Nothing in this Act affects the operation of:
  - (a) the *Transport Administration Act 1988* as it applies to the Parramatta Rail Link, in

particular Division 6 of Part 9 of that Act (Special provisions for Parramatta Rail Link), or

(b) the *Public Works Act 1912* as it applies to the Parramatta Rail Link, in particular Division 6 of Part 6 of that Act (Powers and duties of Constructing Authority).

(2) In this section:

**Parramatta Rail Link** has the same meaning as in section 122 of the *Transport Administration Act 1988*.

## **26 Act not to affect Parramatta Park (Old Government House) Act 1967**

Nothing in this Act affects the operation of the *Parramatta Park (Old Government House) Act 1967*, in particular section 7 of that Act.

## **27 Requirement to state name and address**

- (1) An authorised officer who reasonably suspects a person of having committed an offence against this Act or the regulations may require the person to state the person's full name and residential address.
- (2) An authorised officer may require the driver of a vehicle on the trust lands to produce the driver's driver licence and to state the person's full name and residential address.
- (3) A person must not:
  - (a) fail to comply with a requirement under this section, or
  - (b) in purported compliance with such a requirement, state a name that is not the person's name or an address that is not the person's residential address.

Maximum penalty: 10 penalty units.

- (4) A person is not guilty of an offence under this section unless it is established that the authorised officer warned the person that a failure to comply is an offence.

## **28 Requirement for owner of vehicle and others to give information**

- (1) If the driver of a vehicle is alleged to have committed an offence against this Act or the regulations:
  - (a) the owner of the vehicle or the person having custody of the vehicle must, when required to do so by an authorised officer, immediately give information (which must, if so required, be given in the form of a written statement signed by that owner or person) as to the name and residential address of the driver, or
  - (b) any other person must, if required to do so by an authorised officer, give any information that it is in the person's power to give and that may lead to the identification of the driver.

Maximum penalty: 10 penalty units.

- (2) It is a defence to a prosecution for an offence under subsection (1) (a) if the defendant satisfies the court that the defendant did not know and could not with reasonable diligence have ascertained the driver's name or residential address.
- (3) A written statement purporting to be given under subsection (1) (a) and to contain particulars of the name and residential address of the driver of a vehicle at the time of commission of an alleged offence against this Act or the regulations that is produced in any court in proceedings against the person named in the statement as the driver for such an offence is evidence without proof of signature that the person was the driver of the vehicle at the time of the alleged offence if the person does not appear before the court.
- (4) In this section:

**owner** of a vehicle includes the responsible person for the vehicle within the meaning of the *Road Transport Act 2013*.

## 29 Liability of vehicle owner for parking offences

- (1) If a parking offence occurs in relation to any vehicle, the person who at the time of the occurrence of the offence is the owner of the vehicle is, by virtue of this section, guilty of an offence against the regulation concerned as if the person were the actual offender guilty of the parking offence unless:
  - (a) in any case where the offence is dealt with under section 30, the person satisfies an authorised officer described in the notice served under that section that the vehicle was at the relevant time a stolen vehicle or a vehicle illegally taken or used, or
  - (b) in any other case, the court is satisfied that the vehicle was at the relevant time a stolen vehicle or a vehicle illegally taken or used.
- (2) Nothing in this section affects the liability of the actual offender but where a penalty has been imposed on or recovered from any person in relation to a parking offence no further penalty may be imposed on or recovered from any other person in relation to that offence.
- (3) Despite subsection (1), an owner of a vehicle is not, by virtue of that subsection, guilty of an offence if:
  - (a) in any case where the offence is dealt with under section 30, the person:
    - (i) within 21 days after service on the person of a notice under that section alleging that the person is guilty of the offence, supplies by statutory declaration to an authorised officer described in the notice the name and address of the person who was in charge of the vehicle at all relevant times



relating to the offence, or

(ii) satisfies such an authorised officer that the person did not know and could not with reasonable diligence have ascertained that name and address, or

(b) in any other case, the person:

(i) within 21 days after service on the person of a summons in respect of the offence, supplies by statutory declaration to the informant the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence, or

(ii) satisfies the court that the person did not know and could not with reasonable diligence have ascertained that name and address.

(4) A statutory declaration under subsection (3) if produced in any proceedings against the person named in it and in relation to the offence in respect of which the statutory declaration was supplied is evidence that that person was in charge of vehicle at all relevant times relating to that offence.

(5) A statutory declaration that relates to more than one offence is taken not to be a statutory declaration under, or for the purposes of, subsection (3).

(6) In this section:

**owner** of a vehicle includes the responsible person for the vehicle within the meaning of the *Road Transport Act 2013*.

**parking offence** means any offence of parking a vehicle in contravention of the regulations.

### 30 Penalty notices for certain offences

(1) An authorised officer may serve a penalty notice on a person if it appears to the officer that the person has committed, or by virtue of section 29 is guilty of, an offence under this Act or the regulations, being an offence prescribed by the regulations.

(2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter dealt with by a court, the person may pay, within the time and to the person specified in the notice, the amount of penalty prescribed by the regulations for the offence if dealt with under this section.

(3) Any such notice:

(a) may be served personally or by post, or

(b) if it relates to an offence of which the owner of a vehicle is guilty by virtue of section 29, may be addressed to the owner without naming the owner or stating

the address of the owner and may be served by leaving it on or attaching it to the vehicle.

- (4) If the amount of any penalty prescribed for an alleged offence is paid in accordance with this section, no person is liable to any further proceedings for the alleged offence.
- (5) Payment of a penalty in accordance with this section is not to be regarded as an admission of liability for the purposes of, nor in any way as affecting or prejudicing any civil claim, action or proceeding arising out of the same occurrence.
- (6) The regulations may:
  - (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and
  - (b) prescribe the amount of penalty payable for the offence if dealt with in accordance with this section, and
  - (c) prescribe different amounts of penalties for different offences or classes of offences.
- (7) The amount of a penalty prescribed under this section for an offence must not exceed the maximum amount of penalty which could be imposed for the offence by a court.
- (8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings which may be taken in respect of offences.

### **31 Proof of certain matters not required**

In any legal proceedings, proof is not required (until evidence is given to the contrary) of:

- (a) the constitution of the Trust, or
- (b) any resolution of the Trust, or
- (c) the appointment of, or the holding of office by, any trustee, or
- (d) the presence of a quorum at any meeting of the Trust.

### **32 Proceedings for offences**

- (1) Proceedings for an offence against this Act or the regulations are to be dealt with summarily before the Local Court.
- (2) Any such proceedings may be commenced within but not later than 12 months after the date on which the offence is alleged to have been committed.

### **33 Offences by corporations**

- (1) If a corporation commits an offence against this Act or the regulations:

- (a) each person who is a director of the corporation, and
  - (b) each person who is concerned in the management of the corporation,
- is taken to have committed the same offence if the person knowingly authorised or permitted the act or omission constituting the offence.

- (1A) Subsection (1) does not apply in respect of an offence against section 28 (1).
- (2) A person may be proceeded against and convicted under this section whether or not the corporation has been proceeded against and convicted.
- (3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation.

### **34 Compensation**

- (1) If any person is convicted of an offence against this Act or the regulations and the court before whom the person was convicted is satisfied that the commission of the offence caused or resulted in loss or damage to the trust lands or other property of the Trust, the court may order payment to the Trust of such sum as the court thinks fit by way of compensation for that loss or damage.
- (2) The court may make such an order whether or not it imposes a penalty for the offence.
- (3) An order made by a court under section 10 of the *Crimes (Sentencing Procedure) Act 1999* in any proceedings for an offence against this Act or the regulations operates for the purposes of subsection (1) as a conviction for the offence.

### **35 Recovery**

Any charge, fee or money owing to the Trust may be recovered as a debt due in a court of competent jurisdiction.

### **36 Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to:
  - (a) the use and enjoyment of the trust lands, and
  - (b) the care, control and management of the trust lands (including regulating or prohibiting the parking and use of vehicles within the trust lands), and
  - (c) the determination and payment of fees for:

- (i) the use of recreation areas in the trust lands, and
  - (ii) the use of roadways or other areas within the trust lands for organised activities, and
  - (iii) filming or photographing within the trust lands for the purpose of cinema or television productions or for commercial purposes, or
  - (iv) the use or purchase of any written or other material that is the property of the Trust, and
  - (v) such other items or services as the Trust may provide, and
- (d) the meetings of the Trust, and
  - (e) the committees of the Trust, and
  - (f) the use and custody of the seal of the Trust.
- (2) A regulation may create an offence punishable by a penalty not exceeding 10 penalty units.
- (3) In this section, a reference to the trust lands includes a reference to any part of the trust lands.

### **37 Repeal, savings and transitional**

- (1) The *National Parks and Wildlife (Parramatta Regional Park) Act 1998* is repealed.
- (2) Schedule 4 has effect.

### **38 (Repealed)**

## **Schedule 1 Land vested in the Trust**

(Section 8)

### **Part 1 Description of principal trust lands**

All that piece or parcel of land situated in the City of Parramatta, Parishes of St John and Field of Mars, County of Cumberland, containing an area of about 85.36 hectares, being the area shown in the plan catalogued Ms 80-3000 in the Department of Land and Water Conservation exclusive of the following parcels:

- (a) lots 951-965 inclusive DP 42643,
- (b) lots 362 and 369 DP 752058,
- (c) lot 1 DP 795042,
- (d) lots 1 and 2 DP 615339,

- (e) public road (Park Parade),
- (f) the area shown in the plan catalogued Ms 9250–3000 in the Department of Land and Water Conservation.

## **Part 2 Interests etc discharged**

### **Schedule 2 Provisions relating to the trustees**

(Section 5 (2))

#### **1 Chairperson of the Trust**

- (1) One of the trustees is to be appointed as Chairperson of the Trust by the relevant instrument of appointment as a trustee or by another instrument executed by the Minister.
- (2) The Minister may remove a trustee from the office of Chairperson.
- (3) The Chairperson is taken to have vacated the office of Chairperson if the Chairperson:
  - (a) is removed from that office by the Minister under subclause (2), or
  - (b) resigns that office by instrument in writing addressed to the Minister, or
  - (c) ceases to be a trustee.

#### **2 Acting trustees and acting Chairperson**

- (1) The Minister may, from time to time, appoint a person to act in the office of a trustee during the illness or absence of the trustee, and the person, while so acting, has and may exercise all the functions of the trustee and is taken to be a trustee.
- (2) The Minister may, from time to time, appoint a trustee to act in the office of Chairperson during the illness or absence of the Chairperson, and the trustee, while so acting, has and may exercise all the functions of the Chairperson and is taken to be the Chairperson.
- (3) The Minister may remove any person from any office to which the person was appointed under this clause.
- (4) A person while acting in the office of a trustee is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.
- (5) For the purposes of this clause, a vacancy in the office of trustee or the Chairperson is taken to be an absence from office of the trustee or Chairperson, as the case may be.

### 3 Term of office

Subject to this Schedule, a trustee holds office for such period, not exceeding 4 years, as may be specified in the instrument of appointment of the trustee, but is eligible (if otherwise qualified) for re-appointment.

### 4 Remuneration

(1) A trustee is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the trustee.

(2) In this clause:

**trustee** includes any member of a committee of the Trust.

### 5 Casual vacancies

(1) The office of a trustee becomes vacant if the trustee:

(a) dies, or

(b) completes a term of office and is not re-appointed, or

(c) resigns the office by instrument in writing addressed to the Minister, or

(d) is removed from office by the Minister under this clause, or

(e) is absent from 3 consecutive meetings of the Trust of which reasonable notice has been given to the trustee personally or by post, except on leave granted by the Minister or unless the trustee is excused by the Minister for having been absent from those meetings, or

(f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or

(g) becomes a mentally incapacitated person, or

(h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.

(2) The Minister may at any time remove a trustee from office.

(3) Without limiting the generality of subclause (2), the Minister may remove from office a trustee who contravenes the provisions of clause 7.

## **6 Filling of vacancy in office of trustee**

If the office of any trustee becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

## **7 Disclosure of pecuniary interests**

(1) If:

- (a) a trustee has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Trust, and
- (b) the interest appears to raise a conflict with the proper performance of the trustee's duties in relation to the consideration of the matter,

the trustee must, as soon as possible after the relevant facts have come to the trustee's knowledge, disclose the nature of the interest at a meeting of the Trust.

(2) A disclosure by a trustee at a meeting of the Trust that the member:

- (a) is a member, or is in the employment, of a specified company or other body, or
- (b) is a partner, or is in the employment, of a specified person, or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person that may arise after the date of the disclosure and that is required to be disclosed under subclause (1).

(3) Particulars of any disclosure made under this clause must be recorded by the Trust in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the Trust.

(4) After a trustee has disclosed the nature of an interest in any matter, the trustee must not, unless the Minister otherwise determines:

- (a) be present during any deliberation of the Trust with respect to the matter, or
- (b) take part in any decision of the Trust with respect to the matter.

(5) A contravention of this clause does not invalidate any decision of the Trust.

(6) A reference in this clause to a meeting of the Trust includes a reference to a meeting of a committee of the Trust.

## **8 Effect of certain other Acts**

(1) Part 2 of the *Public Sector Management Act 1988* does not apply to or in respect of

the appointment of a trustee.

(2) If by or under any Act provision is made:

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
- (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a trustee or from accepting and retaining any remuneration payable to the person under this Act as a trustee.

## **9 Liability of trustees**

No matter or thing done by the Trust, any trustee or any person acting under the direction of the Trust, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subjects a trustee or a person so acting personally to any action, liability, claim or demand.

## **Schedule 3 Provisions relating to the procedure of the Trust**

(Section 5 (3))

### **1 General procedure**

The procedure for the calling of meetings of the Trust and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Trust.

### **2 Quorum**

The quorum for a meeting of the Trust is 4 trustees.

### **3 Presiding trustee**

- (1) The Chairperson (or, in the absence of the Chairperson, another trustee elected to chair the meeting by the trustees present) is to preside at a meeting of the Trust.
- (2) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

### **4 Voting**

A decision supported by a majority of the votes cast at a meeting of the Trust at which a quorum is present is the decision of the Trust.



## **5 Transaction of business outside meetings or by telephone**

- (1) The Trust may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Trust for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Trust.
- (2) The Trust may, if it thinks fit, transact any of its business at a meeting at which trustees (or some trustees) participate by telephone, closed-circuit television or other means, but only if any trustee who speaks on a matter before the meeting can be heard by the other trustees.
- (3) For the purposes of:
  - (a) the approval of a resolution under subclause (1), or
  - (b) a meeting held in accordance with subclause (2),the Chairperson and each trustee have the same voting rights as they have at an ordinary meeting of the Trust.
- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Trust.
- (5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

## **6 Minutes**

The Trust must cause full and accurate minutes to be kept of the proceedings of each meeting of the Trust.

## **7 The Director**

The Director is entitled to be heard by the Trust on any matter considered by the Trust and, unless the Trust otherwise directs, is entitled to be present at each meeting of the Trust.

## **8 First meeting**

The Minister may call the first meeting of the Trust in such manner as the Minister thinks fit.

## Schedule 4 Savings and transitional provisions

(Section 37)

### Part 1 Preliminary

#### 1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

    this Act

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

### Part 2 Provisions consequent on enactment of this Act

#### 2 Definitions

In this Part:

**assets** means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money) and includes securities, choses in action and documents.

**conveyance** includes transfer, assignment and assurance.

**former Parramatta Regional Park** means the land reserved as Parramatta Regional Park under the [National Parks and Wildlife Act 1974](#) immediately before the revocation of that reservation by this Act.

**liabilities** means all liabilities, debts or obligations (whether present or future and whether vested or contingent).

**new Trust** means the Trust constituted by this Act.

### 3 The former Trust

- (1) The Parramatta Regional Park Trust is dissolved.
- (2) A person who, immediately before the dissolution of the Parramatta Regional Park Trust by this Act, held office as a member of the trust board of the former Trust:
  - (a) ceases to hold that office, and
  - (b) is not entitled to any remuneration or compensation because of the loss of that office, and
  - (c) is eligible (if otherwise qualified) to be appointed as a trustee of the new Trust.

### 4 Construction of references

A reference to Parramatta Regional Park in any Act, in any instrument made under any Act, or in any document of any kind, is to be read as a reference to the principal trust lands.

### 5 Transfer of assets

- (1) On the day that the former Trust is dissolved by this Act, the assets, rights and liabilities (if any) of the former Trust are transferred to the new Trust and the following provisions have effect:
  - (a) the assets of the former Trust vest in the new Trust by virtue of this clause without the need for any conveyance,
  - (b) the rights and liabilities of the former Trust become the rights and liabilities of the new Trust,
  - (c) all proceedings commenced before that day by or against the former Trust and pending immediately before that day are taken to be proceedings pending by or against the new Trust,
  - (d) any act, matter or thing done or omitted to be done before that day by, to or in respect of the former Trust is (to the extent that that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the new Trust,
  - (e) a reference in any instrument of any kind to the former Trust is to be read as a reference to the new Trust.
- (2) No attornment to the new Trust by a lessee from the former Trust is required.
- (3) In this clause:

***instrument*** means an instrument (other than this Act) that creates, modifies or extinguishes rights or liabilities (or would do so if lodged, filed or registered in

accordance with any law), and includes any judgment, order or process of a court.

## 6 Vesting of excised land

- (1) On the commencement of section 8, the excised land ceases to be vested in the Minister.
- (2) A reference in any lease, licence or other estate or interest to which the excised land was subject immediately before the commencement of section 8, or in the instrument creating any such lease, licence or other estate or interest, to the Minister is taken to be a reference to the new Trust.
- (3) No attornment to the new Trust by a lessee from the Minister is required.
- (4) In this clause:

**instrument** means an instrument (other than this Act) that creates, modifies or extinguishes rights or liabilities (or would do so if lodged, filed or registered in accordance with any law), and includes any judgment, order or process of a court.

**the excised land** means the land excised from Parramatta Regional Park by the [National Parks and Wildlife \(Parramatta Regional Park\) Act 1998](#).

**the Minister** means the Minister administering the [National Parks and Wildlife Act 1974](#) in that Minister's capacity as corporation sole.

## 7 Saving of native title rights and interests

- (1) This Act does not operate to extinguish any native title rights and interests existing in relation to the land described in Schedule 1 immediately before its vesting by section 8.
- (2) This section does not affect any extinguishment of native title rights and interests by the operation of the [Native Title Act 1993](#) of the Commonwealth or the [Native Title \(New South Wales\) Act 1994](#).
- (3) Words and expressions used in the [Native Title Act 1993](#) of the Commonwealth and in this clause have the same meanings as they have in that Act.

## 8 Plan of management

- (1) A plan of management that was in force in relation to the former Parramatta Regional Park under the [National Parks and Wildlife Act 1974](#) is taken to be a plan of management that has been adopted under Part 5 of this Act.
- (2) Nothing in section 79A of the [National Parks and Wildlife Act 1974](#) causes a plan of management that is taken to have been adopted under this Act to expire.
- (3) This clause ceases to have effect when a new plan of management for the trust lands

is adopted under Part 5.

## **Schedule 5 (Repealed)**