

Wellington Park Act 1993

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11. Functions and powers of Trust

- (1) The functions of the Trust are as follows:
 - (a) to provide for the management and maintenance of Wellington Park in a manner that is consistent with the purposes for which it is set aside;
 - (b) to give effect to any management plan in force for Wellington Park;
 - (c) to prepare plans with a view to their submission to the Governor for approval as management plans for Wellington Park and to keep under review the provisions of management plans;
 - (d) to ensure that any development undertaken in Wellington Park is consistent with the purposes for which it is set aside and with any management plan;
 - (e) when required to do so by the Minister, to advise on any development proposed for Wellington Park;
 - (f) to carry out, or arrange for the carrying out of, research and other activities that appear to it to be desirable in connection with the administration of this Act;
 - (g) to be the managing authority of Wellington Park;
 - (h) to perform such other functions as are imposed on it by or under this or any other Act.
- (2) The Trust may do all things necessary or convenient to be done for or in connection with, or incidental to, the performance of its functions.
- (3) Without limiting subsection (2), the Trust may use, or arrange for the use of, Wellington Park as it considers appropriate to promote the purposes for which it is set aside and may –
 - (a) provide and maintain facilities and conveniences for the use or benefit of persons resorting to Wellington Park, and charge for the use of those facilities or conveniences; and
 - (b) sell or let on hire to, or otherwise provide for the use of, those persons, goods and other articles and things; and
 - (c) obtain and use for the purpose of the exercise of its powers under this section any produce of, or materials in, Wellington Park; and
 - (d) make arrangements with any other person for the doing of anything referred to in paragraph (a), (b) or (c); and
 - (e) erect or construct any buildings or other works and purchase or acquire any articles or other things.
- (4) The arrangements referred to in subsection (3) (d) may be arrangements pursuant to which any person has the right or obligation to do any of the things referred to in that subsection, and those arrangements may provide for the furnishing of consideration in respect of the giving of that right or the imposition of that obligation.
- (5) The Minister may give directions to the Trust with respect to the performance of its functions and, in performing its functions, the Trust must comply with any directions so given.
- (6) The power conferred on the Minister by subsection (5) is not to be exercised so as –
 - (a) to require the Trust to do anything that it is not empowered to do by this Act; or
 - (b) to prevent the Trust from performing any function that it is expressly required by this Act to perform, whether conditionally or unconditionally; or
 - (c) to interfere with the formation by the Trust of any opinion or belief in relation to any matter that has to be determined as a prerequisite to the performance or exercise by the Trust of any of its functions or powers under this Act.

SCHEDULE 3 - Provisions with Respect to Constitution and Membership of the Trust**1. Term of appointment**

A member of the Trust is to be appointed for such term, not exceeding 3 years, as is specified in the member's instrument of appointment and, if otherwise qualified, is eligible for re-appointment.

2. Provisions requiring devotion of whole of time to other duties

Where, by or under any Act, provision is made requiring the holder of an office to devote the whole of his or her time to the duties of office under that Act, that provision does not operate to disqualify that person from holding that office and also the office of a member of the Trust.

3. Terms and conditions of appointment

- (1) Subject to subclause (2), a member of the Trust is entitled to be paid such remuneration and allowances as the Governor may from time to time determine.
- (2) A member of the Trust who is a State Service officer or State Service employee is not entitled to remuneration under subclause (1), except with the approval of the Minister administering the State Service Act 2000.
- (3) An appointed member holds office on such terms and conditions not provided for in this Act as are determined by the Minister.

4. Disclosure of interests

- (1) If a member of the Trust has or acquires an interest (whether pecuniary or otherwise) that would conflict with the proper performance of the member's functions in relation to a matter being considered or about to be considered by the Trust, the member must disclose the nature of that interest at a meeting of the Trust.
- (2) A disclosure under subclause (1) is to be recorded in the minutes of the meeting of the Trust and the member must not, unless the Trust otherwise determines –
 - (a) be present during any deliberation of the Trust with respect to that matter; or
 - (b) take part in any decision of the Trust with respect to that matter.
- (3) For the purpose of making a determination by the Trust under subclause (2) in relation to a member who has made a disclosure under subclause (1), a member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates must not take part in the making by the Trust of the determination.

5. Deputies of members

- (1) The Minister may appoint a deputy of a member of the Trust.
- (2) The deputy of –
 - (a) the member referred to in section 10 (1) (b) must be nominated by the Director-General of Lands; and
 - (b) the member referred to in section 10 (1) (c) must be nominated by the Director of National Parks and Wildlife; and
 - (c) the member referred to in section 10 (1) (d) must be nominated by the chief executive officer of Tourism Tasmania; and
 - (d) a member referred to in section 10 (1) (e) must be nominated by the Hobart City Council; and
 - (e) the member referred to in section 10 (1) (f) must be nominated by the Glenorchy City Council; and
 - (f) the member referred to in section 10 (1) (g) must be nominated by the Hobart Regional Water Board.
- (3) If a member of the Trust is unable for any reason to perform the duties of a member, the member's deputy may perform those duties and, when doing so, is deemed to be a member.
- (4) A deputy member of the Trust holds office for such term, not exceeding 3 years, and on such conditions, as are specified in his or her instrument of appointment.

6. Resignation

A member of the Trust may resign by signed notice given to the Minister.

7. Termination of appointment

- (1) The Minister may terminate the appointment of a member if the member –
 - (a) becomes mentally or physically incapable of performing satisfactorily the duties of office; or
 - (b) is convicted in Tasmania, or elsewhere, of an offence punishable by imprisonment for 2 years or longer; or
 - (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with his or her creditors or makes an assignment of his or her remuneration or estate for their benefit; or
 - (d) fails, without reasonable excuse, to comply with clause 4.
- (2) The Minister may remove a member referred to in section 10 (1) (b), (c), (d), (e), (f) or (g) from office if the Minister is satisfied, having regard to the information supplied by the person or body which nominated that member for appointment, that the member is no longer qualified to be appointed to the Trust.

8. Validity of proceedings

- (1) An act or proceeding of the Trust or of any person acting pursuant to any direction of the Trust is not invalidated or prejudiced by reason only of the fact that, at the time when the act or proceeding was done, taken or commenced, there was a vacancy in the membership of the Trust.
- (2) All acts and proceedings of the Trust or of any person acting pursuant to any direction of the Trust are, notwithstanding the subsequent discovery of any defect in the appointment of any member of the Trust or that any person was disqualified from acting as, or incapable of being, a member of the Trust, as valid as if the member had been duly appointed and was qualified to act as, or capable of being, a member, and as if the Trust had been fully constituted.
- (3) Where a member of the Trust does or purports to do, or omits or purports to omit to do, any act or thing in good faith for the purpose of administering or executing this Act, the member is not to be personally subjected to any action, liability, claim or demand in respect of that act or omission.

9. Presumptions

In any proceedings by or against the Trust, unless evidence is given to the contrary, no proof is required of –

- (a) the constitution of the Trust; or
- (b) any resolution of the Trust; or
- (c) the appointment of any member of the Trust; or
- (d) the presence of a quorum at any meeting of the Trust.