

# THE TERRITORY FOR THE SEAT OF GOVERNMENT.

No. 24 of 1937.

## AN ORDINANCE

### Relating to Roads and other Public Places.

**B**E it ordained by the Governor-General in and over the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act 1909* and the *Seat of Government (Administration) Act 1910-1933*, as follows:—

1. This Ordinance may be cited as the *Roads and Public Places Ordinance 1937*. Short title.

2. In this Ordinance, unless the contrary intention appears— Definitions.

“authorized officer,” in relation to any act, matter or thing, means an officer thereto authorized in writing by the Minister;

“owner,” in relation to land leased from the Commonwealth, means the lessee of the land;

“public place” means any place which the public are entitled to use or which is open to, or used by, the public and includes every public road;

“public road” means any street, road, lane, thoroughfare, footpath, or place open to, or used by, the public and includes any street, road, lane, thoroughfare, footpath, or place open to, or used by, the public within that part of the village to the south of Captain’s Point at Jervis Bay in which the Royal Australian Naval College was situated.

3.—(1.) Subject to this section, the Minister may fix or alter the level of any public road. Level of roads.

(2.) The level of any public road shall not be fixed or altered before an opportunity is given to persons interested in such fixation or alteration to be heard in relation thereto.

(3.) At least thirty days before the fixing or altering of the level of any public road, the Minister shall cause a notice of his intention to fix or alter the level to be inserted twice in a newspaper circulating in the Territory.

(4.) The notice shall specify—

(a) the name and situation of the road or part of the road the level of which it is intended to fix or alter;

(b) the place where plans of the intended level may be inspected; and

(c) the place where and the time when any person interested may be heard by an authorized officer.

(5.) The authorized officer shall at the time and place mentioned in the notice hear all persons interested and shall furnish a report of the hearing to the Minister.

(6.) The Minister may, thereupon, in his discretion, adopt or abandon or make such alterations in the intended level as he thinks fit.

Temporary closing of roads.

4.—(1.) The Minister may, subject to this section, temporarily close any public road against vehicular or other traffic.

(2.) Except in cases of urgency, the Minister shall not close any public road against vehicular or other traffic unless—

(a) notice of his intention to close the road has been published in a newspaper circulating in the Territory at least seven days before the date upon which it is intended to close the road; and

(b) a notice indicating that the road is closed is displayed in some conspicuous place on the road.

(3.) Any person who, without the permission of an authorized officer, uses any road so closed shall be guilty of an offence.

Temporary roads.

5.—(1.) Where a road is closed in pursuance of the last preceding section and it is necessary, in the opinion of the Minister or an authorized officer, to make a temporary road for use while the road is so closed, the Minister or an authorized officer may make a temporary road.

(2.) If the land on which it is intended to make the road is fenced, the Minister or an authorized officer shall cause notice of his intention to make the road to be given to the occupier or owner of the land at least twenty-four hours before the making of the road is commenced:

Provided that it shall not be necessary for the notice to be given in any case where the Minister or an authorized officer is of opinion that it is essential that a temporary road should be made forthwith.

(3.) Any person who obstructs or hinders the Minister, an authorized officer or his assistants in making a road in pursuance of this section shall be guilty of an offence.

Drains for surface water.

6.—(1.) Where surface water from any land overflows into and damages any public place, the Minister may, by notice in writing, require the owner of the land to repair any such damage and to construct such drains and in such situations as are specified in the notice within one month after service upon him of the notice.

(2.) The owner shall maintain the drains in good order and condition.

(3.) In the event of the owner failing to comply with any such notice or to maintain the drains in good order and condition, the Minister may enter on the land mentioned in the notice with such assistants as he deems necessary and construct or maintain the drains and may recover in any court of competent jurisdiction

from the owner the cost of such construction and maintenance and, in addition, the cost of repairing the damage to the public place.

7. Any person who—

(a) wilfully or negligently damages or suffers or causes damage to be done to; or

(b) without the permission in writing of the Minister or an authorized officer (proof whereof shall lie upon the person accused), interferes with,

any public place or any kerbstone, watertable, gutter, footpath or other work thereon or any fence, post, lamp, lamp post, structure or other property of the Commonwealth in any public place, shall be guilty of an offence.

Damage to or interference with public places and property thereon.

8. Any person who, without the permission of the Minister or an authorized officer (proof whereof shall lie upon the person accused)—

(a) makes or places any culvert, bridge, crossing or drain across any watertable, watercourse or footpath in any public place;

(b) makes any excavation in a public place; or

(c) places any obstruction in, over or across any public place,

shall be guilty of an offence.

Construction of culverts, &c., in public places.

9. The Minister or an authorized officer may grant permission to any person to make or place a culvert, bridge, crossing or drain across a watertable, watercourse or footpath in, or to open up or break the surface of, any public place upon payment of the prescribed fee and in accordance with such conditions as the Minister determines.

Permission to make or place culverts, &c., or to open up or break the surface of public places.

10. Where any excavation or obstruction is made, or any substance or material is placed, on any public place, or any work is being carried on, on any public place entailing the opening up or breaking of the surface thereof, the person making, or permitting or causing to be made, the excavation or obstruction, or placing the substance or material, or permitting or causing the substance or material to be placed, on the public place, or carrying out the works, shall cause sufficient lights to be affixed in a proper place to indicate clearly the excavation, obstruction, substance, material or works, and continue those lights every night from sunset to sunrise while the excavation, obstruction, substance, material or works continue, and shall during all that time at his own expense cause the place on which they are continued to be sufficiently fenced or enclosed to prevent any danger or inconvenience to any person.

Excavations or obstructions on public places to be lighted.

Penalty: Twenty pounds.

11. Any person who, without lawful authority (proof whereof shall lie upon the person accused), pulls down, pulls up, destroys or damages any alignment or boundary mark, or any stone, notice

Alignment marks, &c.

board, public notice or other erection in or on any public place shall be guilty of an offence.

Exhibition of advertisements or notices on Commonwealth property.

**12.** Any person who, without the permission of an authorized officer (proof whereof shall lie upon the person accused), exhibits, by any means whatsoever, upon any property of the Commonwealth in or adjoining any public place, any advertisement or notice shall be guilty of an offence.

Trees, &c., overhanging public places.

**13.—(1.)** Where any tree, sapling, plant, shrub or timber on any land overhangs any public place so as to obstruct or inconvenience passers by, an authorized officer may, by notice in writing, require the occupier of the land, within the time specified in the notice, so to cut the tree, sapling, plant, shrub or timber that it will not obstruct or inconvenience passers by.

(2.) Where any tree, sapling, plant, shrub or timber, or part thereof, on any land adjoining any public place is in such a condition or situation as to endanger the safety of any person using the place, whether by obstructing the vision or otherwise, an authorized officer may, by notice in writing, require the occupier of the land to remove forthwith the tree, sapling, plant, shrub or timber, or part.

(3.) Any occupier who fails to comply with any such notice shall be guilty of an offence.

Repair of damage to public places.

**14.** Any person who, whether acting with the permission of the Minister or an authorized officer or not, causes damage to any public place other than the fair wear and tear due to ordinary and reasonable user of such place shall—

(a) pay the cost incurred by the Commonwealth in making good the damage; or

(b) if the Minister so requires, make good the damage to the satisfaction of the Minister or an authorized officer.

Offences.

**15.** Any person who fails to comply with or contravenes any provision of this Ordinance shall be guilty of an offence and, where no other penalty is provided, shall be liable, on conviction thereof, to a penalty not exceeding Ten pounds.

Regulations.

**16.** The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance.

Dated the fifteenth day of December, 1937.

GOWRIE

Governor-General.

By His Excellency's Command,

A. G. CAMERON

for Minister of State for the Interior.

By Authority: L. F. JOHNSTON, Commonwealth Government Printer, Canberra.