

NORTHERN TERRITORY OF AUSTRALIA

CHARLES DARWIN UNIVERSITY (SITE AND TRAFFIC) BY-LAWS

As in force at 22 April 2015

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 22 April 2015

CHARLES DARWIN UNIVERSITY (SITE AND TRAFFIC) BY-LAWS

By-laws under the *Charles Darwin University Act*

Part 1 Preliminary matters

1 Citation

These By-laws may be cited as the *Charles Darwin University (Site and Traffic) By-laws*.

2 Definitions

In these By-laws:

authorised officer means a person appointed under section 28(1) of the Act by the Vice-Chancellor in writing to be an authorised officer for the purposes of these By-laws.

control device means a sign, signal, mark, notice, structure, or device erected, installed, placed, or displayed on the site pursuant to an authorisation under by-law 5(1).

designated non-smoking area means an area on the site designated by the Vice-Chancellor as an area in which smoking is prohibited.

driver, in relation to a vehicle, includes rider.

infringement notice means a notice mentioned in by-law 11A.

infringement notice offence, see by-law 11(1).

owner, in relation to a motor vehicle, means the person in whose name the vehicle is registered under the *Motor Vehicles Act* or under an enactment in force in any other part of the Commonwealth.

park, in relation to a vehicle, means to permit the vehicle (whether unattended or not) to remain stationary otherwise than:

- (a) where required or directed to do so by a control device or an authorised officer; or
- (b) in the course of picking up or setting down passengers or loading or unloading goods.

prescribed amount, see by-law 11(2).

site means land or a building the property of or under the control of the University.

vehicle means a conveyance or carriage, whether or not capable of self-propulsion and whether or not capable of registration under the *Motor Vehicles Act*, and includes a bicycle but does not include a wheelchair or a perambulator.

3 Delegation

The Vice-Chancellor may delegate any of the Vice-Chancellor's powers and functions under these By-laws by instrument in writing.

Part 2 General matters

4 Access to site

- (1) Subject to these by-laws, a person must not enter or remain upon any part of the site unless the person is:
 - (a) a member of the Council; or
 - (b) a member of the staff of the University; or
 - (c) a person pursuing a course of study or undertaking research at the University; or
 - (d) a person who enters or remains on the site for any lawful purpose.
- (2) The Vice-Chancellor may declare any part of the site closed to all persons or to any person or class of persons for such period as the Vice-Chancellor thinks fit.

5 Signs etc.

- (1) The Vice-Chancellor may authorise the erection, installation, placing, or display on the site of such signs, signals, marks, notices, structures, and devices as the Vice-Chancellor considers necessary or desirable for the purpose of:
- (a) regulating or controlling traffic on the site including the parking of vehicles, and the regulation and control of vehicles picking up or setting down passengers or loading or unloading goods;
 - (b) prohibiting the entry onto the site of vehicles of any class or description; or
 - (c) regulating or controlling any other activity on the site.
- (2) For the purposes of these By-laws and of any proceedings for an offence against them a sign, signal, mark, notice, structure, or device capable of being the subject of an authorisation under clause (1) is presumed to be erected, installed, placed, or displayed pursuant to such an authorisation unless the contrary is proved.

6 Reservation of parking spaces

Where an authorisation under by-law 5(1) reserves specified parking spaces for the use of persons who are members of a specified group or groups or for vehicles of a specified type or types, the Vice-Chancellor may also determine the method by which such persons or vehicles may be readily identified and the amount of any fee payable in respect of such use.

7 General powers of authorised officers

An authorised officer may do any of the following:

- (a) require any person on the site to give the person's true name and address, and to provide some means of identification of the person;
- (b) take or cause to be taken such action as the authorised officer considers appropriate to ensure compliance with these by-laws, including the giving of warnings or directions;
- (c) give to the driver or person in charge of a vehicle such directions as appear to the authorised officer necessary or desirable for the purpose of regulating or controlling the movement of traffic on the site, including directions which are at variance with a prohibition or requirement indicated by a control device;

- (d) authorise the driver or person in charge of a vehicle to do anything which, but for such authorisation, would constitute an offence against these By-laws;
- (e) require the driver or person in charge of a vehicle to remove the vehicle from the site;
- (f) in the case of an unattended vehicle which is:
 - (i) at a place on the site to which its entry is prohibited by or under these By-laws; or
 - (ii) parked on the site in contravention of these By-laws,

take or cause to be taken such action as the authorised officer considers appropriate for the purpose of moving the vehicle elsewhere on the site.

8 Offences in relation to the site

Subject to these By-laws, it is an offence for a person:

- (a) to be on the site in contravention of a declaration by the Vice-Chancellor under by-law 4(2); or
- (b) to contravene a requirement of, or a direction given by, an authorised officer under by-law 7; or
- (c) except where authorised by the Vice-Chancellor:
 - (i) to bring or keep or cause to be brought or kept, or to consume, intoxicating liquor on the site; or
 - (ii) to remove, alter, deface, damage, or otherwise interfere with a control device, building, or other thing on the site; or
 - (iii) to have in possession or discharge a firearm on the site; or
 - (iv) to have in possession, set off, or throw a firework on the site; or
 - (v) to light or maintain a fire on the site except in a fireplace provided; or
 - (vi) to throw or discharge a stone or other missile on the site; or

- (d) except in relation to the posting of notices on noticeboards provided for the purpose or the distribution of matter in the course of lawful and customary University or student activities:
 - (i) to post, stick, or otherwise affix to any part of the site, or give out or distribute any placard, handbill, notice, advertisement, or other written, printed, stencilled, or graphic matter; or
 - (ii) to write, draw, print, or paint on or deface any part of the site; or
- (e) except where authorised by the Vice-Chancellor:
 - (i) to sell, expose, or offer for sale, lease, or hire on the site, or to solicit orders on the site for the purchase, lease or hire of, any goods, wares, or merchandise or any other article or thing; or
 - (ii) to organise, arrange, advertise, manage, or control any fete, picnic, concert, display (including displays of film or television), or performance to be held on the site; or
- (f) to smoke in a designated non-smoking area on the site; or
- (g) to throw, deposit, or leave on the site any rubbish, refuse, paper, bottles, or litter of any kind, except in a receptacle provided for the purpose; or
- (h) to use any insulting, abusive, threatening, profane, indecent, or obscene language or to behave in a riotous, violent, disorderly, indecent, obscene, offensive, threatening, or insulting manner on the site; or
- (j) except where incidental to the lawful and customary activities of the University, students, or staff, or where authorised by the Vice-Chancellor, to organise, arrange, advertise, manage, or control any meeting, conference, discussion, speech, preaching, or ceremony on the site; or
- (k) to obstruct:
 - (i) any member of the staff of the University or member of the police force in the discharge of their duty on the site; or
 - (ii) any person in the exercise and enjoyment of any lawful activity while lawfully on the site; or

- (m) except in the course of the person's duty or where authorised by the Vice-Chancellor:
 - (i) to cut, break, deface, pick, remove, destroy, or injure any tree, shrub, plant, or flower on the site; or
 - (ii) to remove, damage, or interfere with any stake or label on or near any tree, shrub, plant, or flower on the site; or
- (n) except for a guide or hearing dog escorting a visually or hearing impaired person or in the course of the person's duty or in connection with a course of study or for the purpose of consulting a member of the staff, to bring or cause to remain on the site any mammal, bird, reptile, fish, or insect; or
- (p) to disturb, frighten, shoot at or throw missiles at any bird, fish, or other animal on the site or otherwise attempt to capture, or kill any bird, fish, or other animal on the site; or
- (q) to bet or offer to accept a bet or to play cards for money or to engage in any form of gambling on the site.

Maximum penalty: 10 penalty units

9 Offences in relation to vehicles

- (1) Subject to these By-laws, it is an offence for a driver or person in charge of a vehicle on the site:
 - (a) to contravene a prohibition or requirement indicated by a control device; or
 - (b) without limiting paragraph (a):
 - (i) to park the vehicle in any area in which parking bays are marked or otherwise indicated otherwise than wholly within a bay; or
 - (ii) in the case of a motor cycle, motor scooter or bicycle, to park it in a space which, notwithstanding that it is marked or otherwise indicated as a parking bay, is of a size appropriate for the parking of a four-wheel vehicle; or
 - (c) to park the vehicle so as to obstruct other vehicles; or
 - (d) on joining a roadway from a parking area, to fail to give way to vehicles using the roadway; or

- (e) to drive or take the vehicle onto any recreation area, nature strip, garden, lawn, footpath or other part of the site which is not constructed for use by vehicles; or
- (f) to drive the vehicle at a speed exceeding 40 km/h or, on any part of the site with respect to which a lower limit is indicated by a control device, that limit; or
- (g) to drive the vehicle negligently or recklessly, or in a manner dangerous to other users of the site, or without due care and consideration for other users; or
- (h) to drive the vehicle so as to cause excessive noise; or
- (j) to abandon the vehicle on the site.

Maximum penalty: 10 penalty units

(1A) In respect of an offence against clause (1)(a) or (g), a reference in clause (1) to a driver or person in charge of a vehicle is to be read as including a reference to the following:

- (a) a person riding a skateboard, scooter or similar device that is propelled by the person pushing his or her foot against the ground;
- (b) a person using roller-skates, roller-blades or similar devices that are attached to the person's feet to assist the person's propulsion,

and clause (1)(a) and (g) applies (with the necessary changes) accordingly.

- (2) A person's act or omission does not constitute an offence under clause (1) by reason of any of paragraphs (a) to (f) of that clause if directed or authorised by an authorised officer under by-law 7.
- (3) This by-law does not apply to the entry and use on the site of an emergency vehicle.

9A Illegally parked bicycles may be clamped

- (1) Where a bicycle is parked in contravention of:
 - (a) a prohibition or requirement indicated by a control device; or
 - (b) by-law 9(1)(b),

an authorised officer may attach to the bicycle a clamp or other device that prevents the bicycle from being removed.

- (2) An authorised officer must remove a clamp or other device that is attached to a bicycle under clause (1) if requested to do so by the owner of the bicycle.

10 Owner onus

- (1) Subject to clauses (2) and (3), where an offence against these by-laws is committed in respect of a vehicle, the owner of the vehicle at the time of the offence is taken to have committed the offence whether or not the owner in fact committed it.
- (2) Nothing in this by-law affects the liability for an offence of an actual offender who is not the owner of the vehicle, but the owner and the actual offender are not both liable for the same offence.
- (3) The owner of a vehicle is not taken to have committed an offence because of clause (1) if:
- (a) where the owner has been served with an infringement notice in relation to the offence, the owner gives the appropriate member of staff, not later than 28 days after the notice is served, a statutory declaration stating facts which prove to the satisfaction of that member of staff:
 - (i) that some other person was in charge of the vehicle at the time when the offence was committed, and that the name and address of that person are as set out in the declaration; or
 - (ii) that the owner sold the vehicle before the offence was committed to a person or through an agent whose name and address are as so set out; or
 - (iii) that the owner was unable to exercise any control over the vehicle when the offence was committed because it had been stolen, or was being used without the owner's consent; or
 - (b) whether or not the owner has been served with an infringement notice, the court hearing the matter is satisfied that the owner was not in charge of the vehicle when the offence was committed.
- (4) For the purposes of clause (3)(a), the appropriate member of staff is the member of the staff of the University holding, acting in or performing the duties of the position of Head of Security.

Part 3 Infringement notice offences

11 Infringement notice offence and prescribed amount payable

- (1) An ***infringement notice offence*** is an offence against by-law 8 or 9(1).
- (2) The ***prescribed amount*** for an infringement notice offence is 1 penalty unit.

11A When infringement notice may be served

If an authorised officer reasonably believes a person has committed an infringement notice offence, the authorised officer may serve a notice on the person.

11B Contents of infringement notice

- (1) The infringement notice, as approved by the Vice-Chancellor, must specify the following particulars:
 - (a) the name and address of the alleged offender, if known;
 - (b) the date of the infringement notice;
 - (c) the date, time and place of the infringement notice offence;
 - (d) a description of the infringement notice offence and the prescribed amount payable for the offence;
 - (e) the enforcement agency, as defined in the *Fines and Penalties (Recovery) Act*, to whom the prescribed amount is payable.
- (2) The infringement notice must include a statement to the effect of the following:
 - (a) the alleged offender may expiate the infringement notice offence and avoid further action in relation to the offence by paying the prescribed amount to the specified enforcement agency within 28 days after service of the notice;
 - (b) the alleged offender may elect, under section 21 of the *Fines and Penalties (Recovery) Act*, to have the matter dealt with by a court instead of under that Act by completing a statement of election and serving it on the specified enforcement agency;
 - (c) if the alleged offender is the owner of a vehicle used in the commission of the offence who was not in control of the vehicle when the offence was committed, the alleged offender may give the appropriate member of staff mentioned in

by-law 10(4) a statutory declaration under by-law 10(3)(a) within 28 days after service of the notice;

- (d) if the alleged offender does nothing in response to the notice, enforcement action may be taken under the *Fines and Penalties (Recovery) Act* including (but not limited to) action for the following:
- (i) suspension of the alleged offender's permit to drive;
 - (ii) suspension of the alleged offender's vehicle registration;
 - (iii) seizure of personal property of the alleged offender;
 - (iv) deduction of an amount from the alleged offender's wages or salary;
 - (v) registration of a statutory charge on land owned by the alleged offender;
 - (vi) making of a community work order for the alleged offender which may result in imprisonment of the alleged offender if the alleged offender breaches the order.
- (3) Also, the infringement notice must include an appropriate form for making the statement of election mentioned in clause (2)(b).

11C Payment by cheque

If the alleged offender tenders a cheque in payment of the prescribed amount, the amount is not taken to have been paid unless the cheque is cleared on first presentation.

11D Withdrawal of infringement notice

- (1) The Vice-Chancellor may withdraw the infringement notice by written notice served on the alleged offender.
- (2) The notice must be served within 28 days after service of the infringement notice but before payment of the prescribed amount.

11E Evidentiary certificate

In proceedings for an infringement notice offence, a certificate signed by the Vice-Chancellor stating any of the following is evidence of the matter:

- (a) a stated person was an authorised officer having stated powers under these By-laws at a stated time;

- (b) a stated document is made, or a stated notice is given, at a stated time;
- (c) a stated thing has been identified as stated in the certificate.

11F Application of Part to proceedings and other matters

- (1) This Part does not prejudice or affect the start or continuing of proceedings for an infringement notice offence unless the offence is expiated.
- (2) Also, this Part does not prevent more than one infringement notice for the same infringement notice offence being served on an alleged offender and, to expiate the offence, it is sufficient for the alleged offender to pay the prescribed amount in accordance with any of the notices.
- (3) In addition, this Part does not:
 - (a) require an infringement notice to be served; and
 - (b) does not affect the liability of a person to be prosecuted in a court for an infringement notice offence for which an infringement notice has not been served.

Part 4 Miscellaneous matters

11G Proceedings for offences

- (1) A prosecution for an offence against these By-laws must be started and continued:
 - (a) in the name of the Vice-Chancellor; and
 - (b) by the Vice-Chancellor or a person authorised by the Vice-Chancellor to start and continue the prosecution.
- (2) In proceedings for an offence against these By-laws, a document signed by the Vice-Chancellor stating that the person named in the document is authorised to start and continue the prosecution for the offence is evidence of the matter it states.

12 Abandoned vehicles

- (1) Where it appears to an authorised officer that a vehicle on the site has been abandoned, the authorised officer may remove the vehicle, or cause it to be removed, to such place on or off the site as the authorised officer considers appropriate.

- (2) As soon as practicable after a vehicle has been removed under clause (1), the authorised officer must, if able to ascertain its owner's name and address, notify the owner in writing of the removal and require the vehicle to be collected from the place specified in the notice within 7 days after the date of the notice.
- (3) Where a vehicle has been removed under clause (1) and:
- (a) the owner of the vehicle fails to collect it within the time allowed by a notice under clause (2); or
 - (b) the authorised officer is unable to ascertain a name and address for the giving of such a notice,
- the authorised officer must, on two separate occasions, give notice of the vehicle's removal, of the place where it may be collected, and of the fact that it will be disposed of if not collected, in a newspaper circulating in the Northern Territory.
- (4) Where the owner of a vehicle fails to collect it within 28 days after the date of publication of the second of the notices required by clause (3), the authorised officer may cause the vehicle to be sold or otherwise disposed of in such manner as the authorised officer thinks fit.
- (5) The authorised officer must pay to the University out of money arising from the sale of a vehicle under clause (4) such amount as the officer considers reasonable to reimburse the University for costs incurred in connection with the vehicle, and any residue forms part of the revenue of the University unless claimed within 6 months after the sale by the owner of the vehicle at the time of its removal under clause (1) or a person claiming through that owner.

13 *Restriction on proceedings under Charles Darwin University (Student Conduct) By-laws*

A student of the University is not to be proceeded against under the *Charles Darwin University (Student Conduct) By-laws* for having committed an infringement notice offence if, within 14 days after the date of the infringement notice relating to the offence, the student has paid the prescribed amount specified in the notice.

14 *Repeal*

The by-laws in force immediately prior to the date of commencement of these by-laws and cited as the *Northern Territory University (Site and Traffic) By-laws* are repealed on and from the date of commencement of these by-laws, but that repeal does not affect the liability for an offence committed under those by-laws or any notice or proceedings issued under those by-laws.

ENDNOTES
1**KEY**

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = Gazette	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2**LIST OF LEGISLATION*****Charles Darwin University (Site and Traffic) By-laws***

Date made	19 August 2004
Notified	26 January 2005
Commenced	26 January 2005

Justice Legislation Amendment Act 2007 (Act No. 5, 2007)

Assent date	24 April 2007
Commenced	s 37 (exc amd of Criminal Code and <i>Legal Profession Act 2006</i>): 1 May 2007 (s 2(1), s 2 <i>Victims of Crime Assistance Act 2006</i> (Act No. 15, 2006) and Gaz G17, 26 April 2007, p 7); rem: 24 April 2007

Charles Darwin University (Site and Traffic) Amendment By-laws 2013

Notified	4 December 2013
Commenced	4 December 2013

Charles Darwin University (Site and Traffic) Amendment By-laws 2015

Notified	22 April 2015
Commenced	22 April 2015

3**LIST OF AMENDMENTS**

pt 1 hdg	ins <i>Charles Darwin University (Site and Traffic) Amendment By-laws 2013</i> , bl 3
bl 2	amd <i>Charles Darwin University (Site and Traffic) Amendment By-laws 2013</i> , bl 4; <i>Charles Darwin University (Site and Traffic) Amendment By-laws 2015</i> , bl 3
pt 2 hdg	ins <i>Charles Darwin University (Site and Traffic) Amendment By-laws 2013</i> , bl 5
bl 4	amd <i>Charles Darwin University (Site and Traffic) Amendment By-laws 2013</i> , bl 7; <i>Charles Darwin University (Site and Traffic) Amendment By-laws 2015</i> , bl 3
bl 5	<i>Charles Darwin University (Site and Traffic) Amendment By-laws 2015</i> , bl 3

ENDNOTES

- bl 7 – 10 amd *Charles Darwin University (Site and Traffic) Amendment By-laws 2013*,
bl 7; *Charles Darwin University (Site and Traffic) Amendment By-laws 2015*,
bl 3
- pt 3 hdg ins *Charles Darwin University (Site and Traffic) Amendment By-laws 2013*,
bl 6
- bl 11 amd Act No. 5, 2007, s 37
sub *Charles Darwin University (Site and Traffic) Amendment By-laws 2013*,
bl 6
- bl 11A sub *Charles Darwin University (Site and Traffic) Amendment By-laws 2013*,
bl 6
- bl 11B ins *Charles Darwin University (Site and Traffic) Amendment By-laws 2013*,
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amd *Charles Darwin University (Site and Traffic) Amendment By-laws 2015*,
bl 3
- bl 11C – 11F ins *Charles Darwin University (Site and Traffic) Amendment By-laws 2013*,
bl 6pt 4 hdg ins *Charles Darwin University (Site and Traffic) Amendment
By-laws 2013*, bl 6
- bl 11G ins *Charles Darwin University (Site and Traffic) Amendment By-laws 2013*,
bl 6
- bl 12 – 13 amd *Charles Darwin University (Site and Traffic) Amendment By-laws 2015*,
bl 3