



ANNO VICESIMO OCTAVO

ELIZABETHAE II REGINAE

A.D. 1979

No. 31 of 1979

An Act to establish the North Haven Trust; to prescribe its powers and functions; to amend the North Haven Development Act, 1972; and for other purposes.

[Assented to 15th March, 1979]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I**PART I****PRELIMINARY**

- Short title.** 1. This Act may be cited as the "North Haven Trust Act, 1979".
- Commencement.** 2. This Act shall come into operation on a day to be fixed by proclamation.
- Arrangement.** 3. This Act is arranged as follows:—
 PART I—PRELIMINARY
 PART II—ESTABLISHMENT OF TRUST
 PART III—POWERS, FUNCTIONS AND RESPONSIBILITIES OF THE TRUST
 PART IV—FINANCIAL PROVISIONS
 PART V—MISCELLANEOUS.
- Interpretation.** 4. In this Act, unless the contrary intention appears—
 "the Council" means the Corporation of the City of Port Adelaide;
 "the Indenture" means the Indenture referred to in the North Haven Development Act, 1972-1979;
 "member" means a member of the Trust;
 "the prescribed area" means—
 (a) the area generally delineated in the first schedule to this Act, and more particularly described in the second schedule to this Act;
 and

- (b) any contiguous land that was, immediately before the commencement of this Act, vested in the Minister of Marine and is declared by regulation to constitute part of the prescribed area;

“the Trust” means the North Haven Trust established under this Act.

5. (1) The North Haven Development Act, 1972, is amended as shown in the third schedule to this Act. Amendment of North Haven Development Act, 1972.

(2) The North Haven Development Act, 1972, as amended by this Act, may be cited as the “North Haven Development Act, 1972-1979”.

PART II

PART II

ESTABLISHMENT OF TRUST

6. (1) There shall be a trust entitled the “North Haven Trust”.

Establishment of Trust.

(2) The Trust shall be subject to the control and direction of the Minister.

(3) The Trust—

(a) shall be a body corporate with perpetual succession and a common seal;

(b) shall be capable of suing and being sued;

and

(c) shall have the powers, duties, functions and authorities conferred, imposed or prescribed by or under this Act.

(4) An apparently genuine document purporting to bear the common seal of the Trust shall in any legal proceedings, in the absence of proof to the contrary, be deemed to have been duly executed by the Trust.

7. (1) The Trust shall consist of five members appointed by the Governor of whom—

Terms and conditions of office.

(a) three shall be appointed on the nomination of the Minister;

and

(b) two shall be appointed on the nomination of the Council.

(2) A member of the Trust shall be appointed for such term of office, not exceeding three years, and upon such conditions, as the Governor may determine and, upon the expiration of his term of office, shall be eligible for re-appointment.

(3) The Governor may appoint a person to be the deputy of a member of the Trust and that person may, in the absence of the member of whom he has been appointed a deputy, act as a member of the Trust.

PART II

- (4) The Governor may remove a member of the Trust from office for—
- (a) any breach of, or non-compliance with, the conditions of his appointment;
 - (b) mental or physical incapacity;
 - (c) neglect of duty;
- or
- (d) dishonourable conduct.
- (5) The office of a member of the Trust shall become vacant if—
- (a) he dies;
 - (b) his term of office expires;
 - (c) he resigns by written notice to the Minister;
- or
- (d) he is removed from office by the Governor pursuant to subsection (4) of this section.
- (6) Upon the office of a member of the Trust becoming vacant, a person shall be appointed in accordance with this Act to the vacant office.

Remuneration of members.

8. The members of the Trust shall be entitled to receive such fees and allowances as may be determined by the Governor.

The Chairman.

9. (1) The Governor may from time to time appoint one of the members of the Trust to be the Chairman of the Trust.
- (2) The Chairman shall, subject to this Act, hold office as such for a term not exceeding three years, specified in the instrument of his appointment, and shall, at the expiration of that term, be eligible for re-appointment.
- (3) If at any time the Chairman ceases to be a member of the Trust he shall cease to be Chairman of the Trust.

Quorum, etc.

10. (1) Three members of the Trust shall constitute a quorum of the Trust.
- (2) The Chairman of the Trust shall preside at a meeting of the Trust at which he is present and, in the absence of the Chairman from a meeting, the members present shall decide who is to preside at the meeting.
- (3) A decision carried by a majority of the votes of the members of the Trust present at a meeting shall be a decision of the Trust.
- (4) Each member of the Trust shall be entitled to one vote on a matter arising for determination by the Trust and the person presiding at the meeting of the Trust shall, in the event of an equality of votes, have a second or casting vote.
- (5) The Trust shall cause accurate minutes to be kept of the business conducted at meetings of the Trust.
- (6) Subject to this Act, the business of the Trust shall be conducted in a manner determined by the Trust.

PART II

11. An act or proceeding of the Trust shall not be invalid by reason only of a vacancy in its membership and, notwithstanding the subsequent discovery of a defect in the appointment of a member, an act or proceeding of the Trust shall be as valid and effectual as if the member had been duly appointed.

Validity of
acts of the
Trust.

12. (1) A member of the Trust who is in any way directly or indirectly interested in a contract, or proposed contract, made by, or in the contemplation of, the Trust—

Disclosure of
interest.

(a) shall as soon as he becomes aware of the contract or proposed contract, disclose the nature of his interest to the Trust;

and

(b) shall not take part in any deliberations or decision of the Trust with respect to that contract.

Penalty: Five hundred dollars.

(2) Subsection (1) of this section does not apply in respect of an interest that exists only by virtue of the fact that a member is an employee of the Trust.

(3) Any disclosure made under this section shall be recorded in the minutes of the Trust.

(4) Where a member makes a disclosure of interest in respect of a contract or proposed contract in accordance with this section or his interest in a contract or proposed contract is not such as need be disclosed under this section—

(a) the contract is not liable to be avoided by the Trust on any ground arising from the fiduciary relationship between the member and the Trust;

and

(b) the member is not liable to account to the Trust for profits derived from the contract.

PART III**PART III****POWERS, FUNCTIONS AND RESPONSIBILITIES OF THE TRUST**

13. (1) The prescribed area shall vest in the Trust for an estate in fee simple freed and discharged from any trust or other interest.

Vesting of
prescribed
area in the
Trust.

(2) Subsection (1) of this section does not derogate from any of the duties or obligations of the Trust under the Indenture.

PART III

(3) For the purpose of giving effect to subsection (1) of this section—

(a) any certificate of title issued before the commencement of this Act in respect of any part of the prescribed area is cancelled and the Registrar-General shall make any necessary consequential entries or notations in the Register Book;

and

(b) upon application by the Trust to the Minister of Lands, and upon production of such plans and other documents as that Minister may require, the Governor shall issue a grant of the land comprised in the prescribed area, in fee simple, to the Trust.

(4) A grant of land made in pursuance of subsection (3) (b) of this section shall have effect as from the commencement of this Act.

(5) The prescribed area shall form part of the Hundred of Port Adelaide and the area of the Corporation of the City of Port Adelaide.

Functions of the Trust.

14. (1) The functions of the Trust are—

(a) to undertake or promote residential, recreational, commercial, marine and associated industrial development within the prescribed area;

and

(b) to provide services and manage facilities within the prescribed area for the benefit of the public or any section of the public.

(2) For the purpose of carrying out its functions, the Trust may—

(a) acquire, hold, deal with, and dispose of real and personal property;

(b) grant licences conferring rights to occupy or use any part of the prescribed area;

(c) develop and provide services, or arrange for the provision of services, within the prescribed area;

(d) enter into contracts or arrangements with any person or body of persons;

and

(e) make and recover charges in respect of services provided by the Trust.

Employees of the Trust.

15. (1) The Trust may, with the approval of the Minister, engage such employees as it thinks necessary for the purposes of this Act.

(2) An employee of the Trust shall be employed upon terms and conditions approved by the Minister.

(3) An employee of the Trust shall not, as such, be subject to the provisions of the Public Service Act, 1967-1978.

Trust may make use of services of public servants.

16. The Trust may, with the approval of the Minister administering any department of the Public Service of the State, make use of the services of officers of that department.

PART IV

PART IV

FINANCIAL PROVISIONS

17. (1) The Trust may borrow money from the Treasurer or, with the consent of the Treasurer, from any other person. Power to borrow.

(2) The Treasurer may upon such terms and conditions as he thinks fit guarantee the repayment on any moneys (together with interest thereon) borrowed by the Trust under this section.

(3) Any moneys required to be paid in satisfaction of a guarantee given pursuant to subsection (2) of this section shall be paid out of the General Revenue of the State which is hereby to the necessary extent appropriated accordingly.

18. (1) All moneys received by the Trust shall be paid into a fund and applied by the Trust for the performance of its functions. Funds of the Trust.

(2) Such of the moneys of the Trust as are not immediately required by the Trust may be lodged on deposit with the Treasurer or invested in any other manner approved by the Treasurer.

(3) The Trust may establish such banking accounts as it thinks fit.

19. (1) As soon as practicable after the commencement of this Act the Trust shall present to the Minister a budget showing its estimates of receipts and payments over the balance of the financial year within which the budget is presented and thereafter the Trust shall before the commencement of each succeeding financial year present to the Minister a budget showing its estimates of its receipts and payments for that succeeding financial year. Budget.

(2) The Trust may at any time present to the Minister a budget containing supplementary estimates of receipts and payments.

(3) The Minister may approve, with or without amendment, any budget or supplementary budget presented to him pursuant to subsection (1) or (2) of this section.

(4) The Trust shall not, without the consent of the Minister, make any expenditure that is not authorized by an approved budget.

(5) In this section—

“approved budget” means a budget that has been approved by the Minister.

20. (1) The Trust shall cause proper accounts to be kept of its financial affairs. Accounts.

(2) The Auditor-General may at any time, and shall at least once in each year, audit the accounts of the Trust, and shall have and may exercise in respect of the moneys and accounts of the Trust and the persons dealing therewith the powers that are vested in the Auditor-General by the Audit Act, 1921-1975, in respect of public accounts and accounting officers.

PART V**PART V****MISCELLANEOUS**

Applications
of Harbors
Act to the
prescribed
area.

21. (1) Subject to subsection (2) of this section, Part III of the Harbors Act, 1936-1978, does not apply in respect of the prescribed area.

(2) Any provision of Part III of the Harbors Act, 1936-1978, that is declared by regulation to apply to the prescribed area shall, with such modifications (if any) as may be prescribed in the regulation, apply in relation to the prescribed area as if it were a harbor.

Exemption
from rates
and taxes.

22. The Trust shall be exempt from—

- (a) land tax payable under the Land Tax Act, 1936-1977;
- (b) rates payable under the Local Government Act, 1934-1978;
- (c) pay-roll tax payable under the Pay-roll Tax Act, 1971-1978;
- (d) rates payable under the Waterworks Act, 1932-1978, or the Sewerage Act, 1929-1977;

and

- (e) any other prescribed rate, tax, charge, levy or impost.

Annual report.

23. (1) The Trust shall, as soon as practicable after the end of each financial year, submit to the Minister, a report upon the conduct of the affairs of the Trust during that financial year, together with the audited statement of accounts of the Trust for that financial year.

(2) The Minister shall cause the report and audited statement of accounts of the Trust to be laid before each House of Parliament as soon as practicable after his receipt thereof.

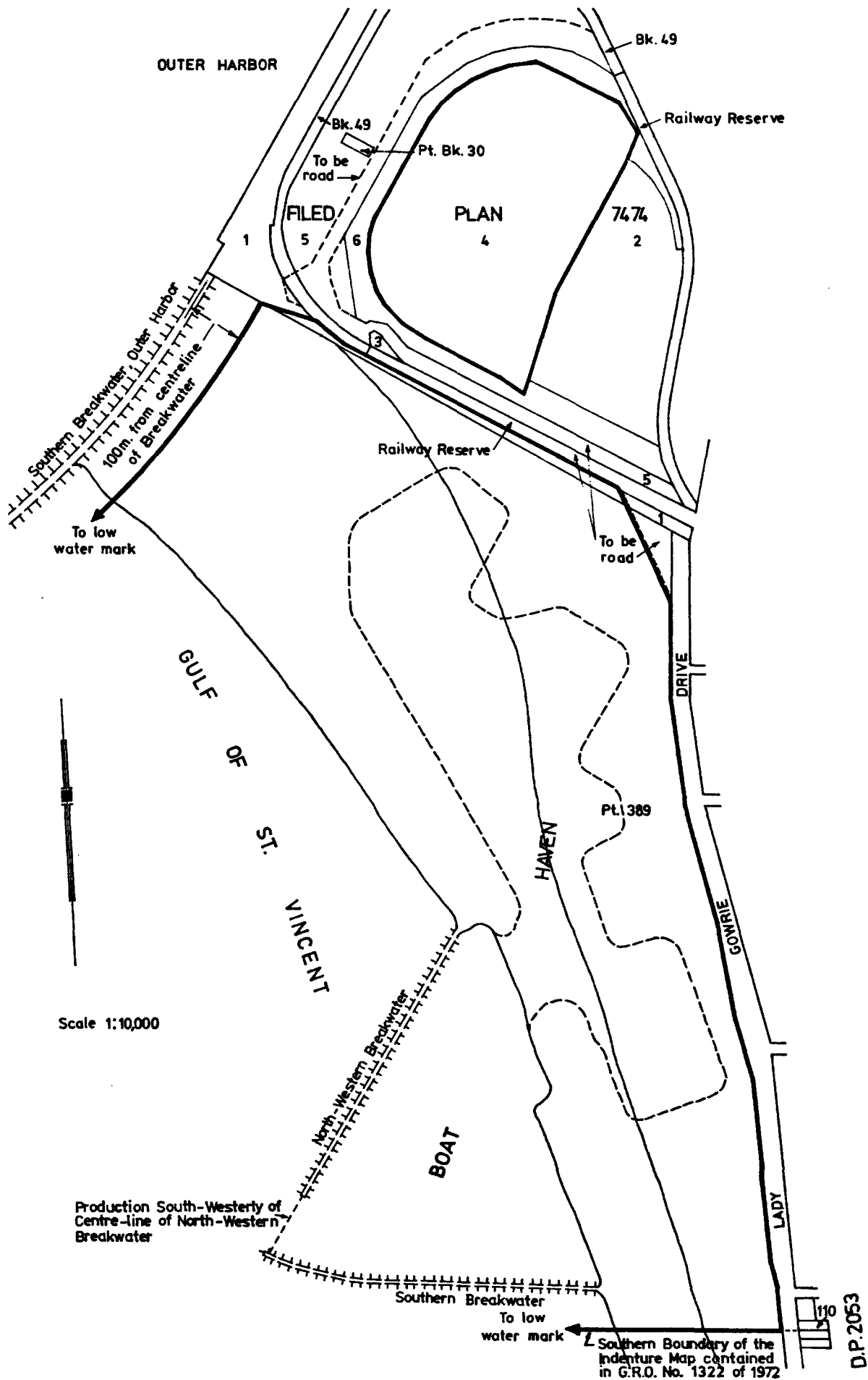
Summary
proceedings.

24. Proceedings in respect of offences against this Act shall be disposed of summarily.

Regulations.

25. The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

THE FIRST SCHEDULE



THE SECOND SCHEDULE

The prescribed area is comprised of—

(a) those portions of the State bounded as follows:—

Commencing at a point on the western boundary of Lady Gowrie Drive, being its intersection with the production westerly of the southern boundary of allotment 110 of Deposited Plan No. 2053; thence northerly along said western boundary of Lady Gowrie Drive (the eastern boundary of part section 389, hundred of Port Adelaide) to a point distant 122.27 metres southerly from the north-eastern corner of said part section 389, hundred of Port Adelaide; north-north-westerly at a western angle of 154° 55' through part section 389 aforesaid and portion of allotment 1 of Filed Plan No. 7474, hundred of Port Adelaide to the south-western boundary of Railway Reserve (the proclamation of which was published in the *Government Gazette* of the 5th day of March, 1908 at page 406 and amended by proclamation published in the *Government Gazette* of the 1st day of April, 1926 at page 926); north-westerly along said south-western boundary of Railway Reserve; again north-westerly along south-western boundaries of block 49, hundred of Port Adelaide for a distance of 77.10 metres; westerly through portion of said allotment 1 of Filed Plan No. 7474 to a point on its south-western boundary distant 100.0 metres south-easterly from the intersection of said south-western boundary of allotment 1 of Filed Plan No. 7474 with the centre-line of the Southern Breakwater, Outer Harbor; generally south-westerly along a line 100.0 metres distant south-easterly from and parallel to the said centre-line of the Southern Breakwater, Outer Harbor to its intersection with Low Water Mark, Gulf of St. Vincent; generally south-easterly, south-westerly, easterly and southerly along said Low Water Mark, Gulf of St. Vincent to its intersection with a southern boundary of the Indenture Map contained in General Registry Office Plan No. 1332 of 1972; thence easterly along latter boundary to the point of commencement; and including all the land within the boat haven bounded on its seaward extremity by the production south-westerly of the centre line of the north-western breakwater to its intersection with the centre-line of the southern breakwater.

(b) Allotment 4 of Filed Plan No. 7474, hundred of Port Adelaide.

THE THIRD SCHEDULE

The North Haven Development Act, 1972, is amended as follows:—

a) by inserting in subsection (1) of section 3 after the definition of "the Society" the following definition:—

"the Trust" means the North Haven Trust.;

(b) by inserting after section 27 the following section:—

28. As from the commencement of the North Haven Trust Act, 1979, references to the Minister in subclauses (1), (2), (3) and (4) of clause 16 of the Indenture shall be read and construed as references to the Trust.

Interpretation
of clause
16 (1)-(4) of
the Indenture
after
commence-
ment
of North
Haven
Trust Act,
1979.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

K. D. SEAMAN, Governor