



WAITE TRUST (MISCELLANEOUS VARIATIONS) ACT 1996

No. 103 of 1996

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ELIZABETHAE II REGINAE

A.D. 1996

No. 103 of 1996

An Act to allow vocational agricultural training and certain other appropriate activities on land that is subject to the terms of the Peter Waite Trust for the establishment of an agricultural high school; to free from that trust the land occupied by Unley High School; and for other purposes.

Preamble

1. By a transfer dated 26 February 1914 certain land at Urrbrae owned by Peter Waite ("the Waite land"), being a portion of the land contained in Certificate of Title Register Book Volume 5352 Folio 559 and the whole of the land contained in Certificate of Title Register Book Volume 4357 Folio 711 (both of which were formerly described as the whole of the land comprised in Certificate of Title Register Book Volume 203 Folio 239) was transferred in fee simple to the Crown.
2. The Waite land was a gift for the purposes of the establishment of an agricultural high school and is therefore subject to a charitable trust for those purposes ("the Trust").
3. By a transfer dated 17 August 1916 certain other land at Urrbrae owned by Susan Dridan ("the Dridan land"), being the balance of the land contained in Certificate of Title Register Book Volume 5352 Folio 559 (formerly described as the whole of the land comprised in Certificate of Title Register Book Volume 117 Folio 12) was transferred in fee simple to the Crown.
4. The Dridan land was purchased by the Crown for valuable consideration and was therefore not subject to any trust consequent upon the transfer.
5. On 13 August 1925 a proclamation was made under the *Crown Lands Act 1915* that had the effect of dedicating the whole of the Waite land and the Dridan land as a reserve for an agricultural high school and for purposes connected therewith (see *Gazette* 13 August 1925 p. 363); these lands now constitute Urrbrae Agricultural High School.
6. A portion of the Waite land, described as Section 598 Hundred of Adelaide, was subsequently dedicated for road purposes and then later placed under the care, control and management of the Mitcham Council and dedicated as a reserve for Council purposes.

7. Another portion of the Waite land, being the whole of the land contained in Certificate of Title Register Book Volume 4357 Folio 711, (formerly described as Section 570, Hundred of Adelaide) was subsequently dedicated as a school reserve to enable the establishment of the Unley High School.

8. Certain other portions of the Waite land have been reserved for road purposes since the establishment of the Trust.

9. The Government now proposes to establish a college for vocational agricultural training on part of the Waite land that is currently occupied by Urrbrae Agricultural High School.

10. It is also proposed that other activities that would be beneficial to agricultural education and training be permitted to take place on Trust land.

11. It is therefore desirable that the terms of the Trust be varied to allow for the various matters referred to in the preceding clauses of this preamble.

[Assented to 19 December 1996]

The Parliament of South Australia enacts as follows:

Short title

1. This Act may be cited as the *Waite Trust (Miscellaneous Variations) Act 1996*.

Variation of Waite Trust

2. (1) The terms of the Trust are varied to allow land subject to the Trust to be used for vocational agricultural education and training of persons of any age or gender and for other purposes beneficial to agricultural education and training approved by the Governor on the recommendation of the Attorney-General.

(2) An approval under subsection (1) may be subject to conditions.

(3) The Attorney-General must cause notice of an approval under subsection (1) (including any conditions attached to the approval) to be published in the *Gazette*.

(4) Nothing in this section affects the requirement, under the Trust, that the land be used for the purposes of an agricultural high school.

(5) It is, and will be taken to always have been, a term of the Trust that the agricultural high school established and maintained on Trust land is for the benefit of persons of either gender.

Extension of Trust to Dridan land

3. The Dridan land will, from the commencement of this Act, be subject to the terms of the Trust (as varied by this Act).

Exchange of Trust land

4. (1) The Governor may by instrument in writing, on the recommendation of the Attorney-General, approve the exchange of a specified portion of the Trust land, not exceeding 2000 square metres, for a specified portion of the land contained in Certificate of Title Register Book Volume 4357 Folio 711, of at least equal size, for the purpose of allowing an access road to the Unley High School gymnasium to be constructed.

(2) On an approval being given under subsection (1)—

- (a) the portion of the Trust land exchanged in accordance with the approval is freed from the terms of the Trust; and
- (b) the portion of the land contained in Certificate of Title Register Book Volume 4357 Folio 711 exchanged in accordance with the approval is subject to the terms of the Trust (as varied by this Act).

Land freed from Trust

5. The portions of the Waite land currently dedicated as—

- (a) a school reserve; or
- (b) a reserve for Council purposes; or
- (c) reserves for road purposes,

and more particularly described in the schedule, are freed from the terms of the Trust.

Duty of Registrar-General

6. The Registrar-General will, on the application of the Minister for Education and Children's Services and on being furnished with such duplicate certificates of title or other documents as the Registrar-General may require, make such notations on certificates of title, or cancel or issue such certificates of title, as may be necessary to give effect to this Act.

Immunity from liability for breach of trust

7. No person is liable at law or in equity for breach of trust by virtue of—

- (a) anything done under this Act; or
- (b) anything done before the commencement of this Act to provide for the establishment of Unley High School or to permit the ongoing operation of Unley High School; or
- (c) anything done before the commencement of this Act to provide for the reserve for Council purposes; or
- (d) anything done before the commencement of this Act to provide for portions of the Trust land to be set aside for road purposes.

SCHEDULE*Lands freed from Trust*

- (a) The whole of the land described in Certificate of Title Register Book Volume 4357 Folio 711, dedicated as a school reserve by proclamation made under the *Crown Lands Act 1929* (see *Gazette* 27 April 1950 p. 901) and currently occupied by the Unley High School;
- (b) Section 598, Hundred of Adelaide, dedicated as a reserve for Council purposes by proclamation made under the *Crown Lands Act 1929* and placed under the care, control and management of the Mitcham Council (see *Gazette* 26 March 1970 p. 1236);
- (c) The following areas of land (reserved for road purposes):
 - (i) the whole of allotment 333 in Filed Plan No. 12138;
 - (ii) the whole of allotment 11 in Deposited Plan No. 39536;
 - (iii) those pieces of land more particularly delineated and marked "NEW RD" in Deposited Plan No. 12019 and allotment 100 in that Deposited Plan.

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

BASIL S. HETZEL, Governor's Deputy