

TRUSTS OF THE SEE

On 10th April 1980 The Synod of the Church of England in the Diocese of Adelaide passed the following resolution:

That the Synod of the Church of England in the Diocese of Adelaide Incorporated pursuant to section 3 of The Church of England Trust Property Act 1971 HEREBY ASSENTS to the resolutions passed by The Dean and Chapter of the Diocese of Adelaide Incorporated on the 26th day of March 1980 and by Leigh Trust on the 28th day of March 1980 and to the deed under the hand and seal of the Archbishop dated the 28th day of March 1980 whereby they and each of them declared a desire to have the benefit of the Church of England Trust Property Act 1971 in respect of the property subject to the terms of a certain Declaration of Trust made the 31st day of October 1881 by the Right Reverend Augustus Short, by Divine permission, Bishop of Adelaide in the then Province of South Australia and the Attorneys within the Province of South Australia of The Society for the Propagation of the Gospel in Foreign Parts and with the concurrent assent of the Dean and Chapter of the Diocese of Adelaide Incorporated which said property is more particularly specified in the said resolutions and deed AND HEREBY DECLARES pursuant to section 5 of the said Act that subject to the passing by the Synod of The Diocese of Adelaide Constitution Canon 1979 the said property is held upon the terms of the Declaration of Trust now marked for identification by the President of the Synod in lieu of the trusts heretofore having effect in respect of the said property.

DECLARATION OF TRUST

TO ALL WHOM THESE PRESENTS SHALL COME THE SYNOD OF THE CHURCH OF ENGLAND IN THE DIOCESE OF ADELAIDE INCORPORATED of 18 King William Road North Adelaide in the State of South Australia (hereinafter called "the Synod") SEND GREETING:

WHEREAS:

- A. By virtue of a certain Declaration of Trust made the 31st day of October 1881 by the Right Reverend Augustus Short, by Divine Permission, Lord Bishop of Adelaide in the then Province of South Australia and the Attorneys within the Province of South Australia of The Society for the Propagation of the Gospel in Foreign Parts incorporated by the Charter of His Majesty King William III and with the concurrence and assent of the Dean and Chapter of the Diocese of Adelaide Incorporated (hereinafter called "the Dean and Chapter") testified by their common seal thereunto affixed it was declared that the whole of the property of the See of Adelaide (whether real or personal and howsoever and wheresoever invested) should be held by the Dean and Chapter upon and subject to the trusts and with the powers and authorities therein declared and contained;
- B. By virtue of the said Declaration of Trust the whole of the property of the See of Adelaide as aforesaid became vested in and held by the Dean and Chapter

and such property from time to time comprising the property of the See of Adelaide has continued to be held by the Dean and Chapter subject however to the trusts more particularly contained in the said Declaration of Trust;

- C. The property more particularly described in the Schedule hereto (hereinafter called "the said property") now comprises the property of the See of Adelaide the subject of the trusts more particularly contained in the said declaration of trust;
- D. In accordance with the provisions of the said Declaration of Trust Keith Rayner, Archbishop of Adelaide, having been appointed to the See of Adelaide signed a declaration in the words contained in the Schedule A annexed to the said Declaration of Trust and entered into and signed the agreement with the Dean and Chapter required by clause 13 of the trusts contained therein;
- E. The said property has become vested in the Synod by virtue of the provisions of Section 4 of The Church of England Trust Property Act 1971;
- F. It is desirable to declare the trusts governing and controlling the management and user of such property upon which the Synod holds and will continue to hold the same;
- G. The provisions of the said Declaration of Trust dated the 31st day of October 1881 by virtue of the provisions of Section 5 of the Church of England Trust Property Act 1971 and of this Deed now cease to be applicable.

NOW KNOW YE AND THESE PRESENTS WITNESS that pursuant to the provisions of Section 5 of the Church of England Trust Property Act 1971 the Synod HEREBY DECLARES AND ACKNOWLEDGES that it holds the said property upon and for the following trusts conditions and purposes namely:

Purposes and Objects

1. The said property shall be held by the Synod for the following purposes and objects:
 - (a) to provide remuneration for –
 - (i) the Bishop;
 - (ii) any Assistant Bishop of the Diocese of Adelaide; and
 - (iii) the Administrator during a vacancy of the See of Adelaide;
 - (b) the maintenance of the See of Adelaide;
 - (c) to provide remuneration for any other diocesan bishop in the Province of South Australia;
 - (d) the maintenance of any other episcopal See in the Province of South Australia;
 - (e) the creation of new Sees as may from time to time be required within the State of South Australia;

- (f) the capitalisation and investment of any surplus income derived from the trust property not appropriated for any of the aforesaid purposes to be held for the purposes of this deed.

Powers of Synod

2. Subject to the provisions of this deed the Synod shall have and may exercise the following powers with respect to the said property:
- (a) to purchase, take on lease or exchange, hire or otherwise acquire and hold any real or personal property, including any rights and privileges;
 - (b) to erect buildings and to renovate, repair, reconstruct, alter, improve, add to and demolish any buildings or structures erected on or forming part of the trust property;
 - (c) to sell, exchange, lease, let, mortgage, pledge, hire, dispose of, turn to account or otherwise deal with all or any of the said property;
 - (d) to accept donations, whether of real or personal estate, and devises and bequests for the purposes of this deed;
 - (e) to raise or borrow money and secure the repayment thereof for the purposes of this deed, with power to issue debentures, grant mortgages, charges or securities upon or charging all or any of the said property whether real or personal, present or future and to redeem or pay off either wholly or in part any existing or future security;
 - (f) for the purposes of this deed to receive moneys on deposit, current account or otherwise with or without allowance for interest and to receive on deposit titles, deeds, leases and other securities of any description;
 - (g) to invest and deal with the said property in such manner as may from time to time be determined by the Synod, including in any common fund in which funds under the control of the Synod are invested from time to time, and for that purpose to acquire and hold shares, stocks, debentures, debenture stock, bonds, obligations, securities or notes issued or guaranteed by any company or corporation constituted or carrying on business in Australia or elsewhere and debentures, debenture stock, bonds, obligations and securities issued or guaranteed by any government, commission, public body or authority, municipal, local or otherwise in Australia or elsewhere and to acquire any such shares, stock, debentures, debenture stock, bonds, obligations, notes or securities by original subscription, tender, purchase, exchange or otherwise and to subscribe for the same either conditionally or otherwise and to guarantee the subscription thereof and to exercise and enforce all rights and powers conferred by and incidental to the ownership thereof.

Episcopal Residence

3. (1) The Synod shall at all times **provide an episcopal residence** for the Bishop to use and occupy during the Bishop's lawful tenure of the See of Adelaide.
- (2) The Synod may, with the consent in writing of the Bishop, or during any vacancy of the See of Adelaide with the consent in writing of the Diocesan Council lease the whole or any part of **the episcopal residence** for any term of years or for any period less than a year and subject to such covenants and conditions as the Synod may with the consent in writing of the Bishop or the Diocesan Council as the case may be determine provided however that during a vacancy of the See any such lease shall be terminable at or before the end of such vacancy.
- (5) The proceeds of sale **of the former episcopal residence known as Bishop's Court, situated at Palmer Place, North Adelaide** shall be applied solely towards a purpose or purposes specified in subclauses (a) or (b) of clause 1 and not in or towards any other purposes or objects specified in this deed and for such purpose such proceeds may be applied in and towards the purchase or erection of a new episcopal house for the See of Adelaide.
- (6) Any proceeds of sale referred to in subclause (5) shall be identified as a separate fund in the accounts of the Trusts.
- (7) **The episcopal residence** shall not be sold and an application referred to in subclause (3) shall not be lodged during any vacancy of the See of Adelaide.

Exercise of Powers of the Synod

4. **Any** right power or authority of the Synod pursuant to this deed may be exercised on behalf of the Synod by the Committee, provided however that the Committee shall not, without the consent of the Diocesan Council, invest funds other than in a common fund in which funds under the control of the Synod are invested from time to time.

Application of Net Income

5. The net income of the said property may be applied by the Synod in or towards any of the purposes and objects enumerated in paragraph 1 of this deed and to all or any one or more of such objects and purposes exclusive of the other or others of them without regard to the order in which the said objects are named in that paragraph.

Application of Funds to Remuneration

6. In applying any funds pursuant to this Deed for the purpose of providing remuneration for a person the Synod shall not in any one year apply to any component of their remuneration an amount greater than the amount fixed for that component by or pursuant to any Ordinance of the Synod of the relevant Diocese.

Trusts of the See Committee

- 6A. (1) There shall be a Trusts of the See Committee which shall comprise:
- (a) The Bishop who shall be President of the Committee;
 - (b) A licensed member of the clergy appointed by the Bishop and a licensed member of clergy elected triennially by the Synod;
 - (c) Two lay members of the church, who need not be members of the Synod, appointed by the Bishop and three lay members of the church, who need not be members of the Synod, elected triennially by the Synod.
- (2) Any appointment by the Bishop shall be for a period of no longer than six years as the Bishop shall determine.
- (3) Any election referred to in subclause (1) shall take place at the annual session of the Synod in an election year referred to in section 14 of the Constitution.
- (4) The delegation of the exercise of the powers of the Synod under section 22 of the Constitution does not apply to the exercise of powers that may be exercised by the Committee under the deed.
- (5) The Committee shall observe the following procedures:
- (a) The President shall appoint a member of the Committee as Chair of the Committee;
 - (b) The President may attend and chair any meeting of the Committee;
 - (c) In the absence of the Chair and in the absence or unwillingness of the President to act as Chair, the Committee shall elect a Chair from among its members;
 - (d) The Secretary of Synod is the secretary of the Committee;
 - (e) The quorum for meetings of the Committee is four members;
 - (f) Subject to the provisions of this Deed, the Committee shall determine the rules of its operations;
 - (g) All meetings of the committee shall be minuted accurately;

- (h) A resolution of the committee may be made by a simple majority of the members of the Committee;
 - (i) The Committee may act notwithstanding any vacancy in its membership.
- (6) The Secretary shall, within 14 days of a meeting of the Committee, advise the President in writing of every decision by the Committee to exercise the powers of the Synod. The President within 14 days of receiving such advice may by notice in writing to the Secretary, determine that a decision of the Committee to exercise the powers of the Synod shall not have effect, and may request the Committee to give the matter further consideration.
- (7) The Committee shall report to each annual session of the Synod on its activities and the operations of the Trusts of the See and shall provide an audited statement of income and expenditure and balance sheet.

Alteration of Trusts

7. Notwithstanding the provisions of paragraph 4 of this deed the provisions of this deed may from time to time be altered, added to or revoked only by the Synod in the same manner and subject to the same conditions as the Synod may make alter or repeal an Ordinance.

Interpretation

8. In this deed unless the context or subject matter otherwise indicates:-
- “Administrator” means the administrator of the Diocese of Adelaide during any incapacity or absence from that Diocese of the Bishop or during any vacancy of the See;
- “lawful tenure of the See” means the period from the enthronement of the Bishop until his death, resignation from the See or lawful sentence according to the Constitution of the Anglican Church of Australia to expulsion from office, deprivation of rights or emoluments appertaining to office or deposition from Holy Orders;
- “lease” includes permission to occupy by the Synod or any agency of the Synod for a purpose or purposes other than a purpose or object mentioned in clause 1 upon terms not less favourable than would apply to the lease of the land to another party negotiated at arm’s length;
- “maintenance” means the fulfilment of the needs and requirements of a See, other than the provision of remuneration referred to in clause 1, in such manner and for such purposes as the Bishop of Adelaide for the time being, with the consent of the Diocesan Council, may from time to time determine;

“net income of the said property” means the net income derived from the said property (including income from the lease of **the episcopal residence** or any part thereof) after the payment of all necessary expenses incurred in the management of the said property including legal expenses and other charges incurred in relation to the said property and the allowance of all necessary and proper deductions from the gross income thereof, whether for rates, taxes or other impositions howsoever and wheresoever imposed and after the provision of such amount as the Synod may determine shall be provided for or towards the keeping in good order and substantial repair of or the effecting of improvements to **the episcopal residence**;

“ordinance” includes any act, canon, constitution, statute, legislative measure or provision;

“remuneration” of a person includes stipend, accommodation, travelling, entertainment and other allowances, payments to a superannuation fund on behalf of the person and, in the case of a bishop, a relocation allowance upon appointment and retirement of the bishop;

"sell" means enter into a contract for the sale of and "sold" has a corresponding meaning;

“the Bishop” means the Bishop of the Diocese of Adelaide for the time being who is by virtue of the Constitution of the Province of South Australia the Metropolitan Bishop of the Province and is styled the Archbishop of Adelaide;

“the Committee” means the Trusts of the See Committee referred to in clause 6A;

“the Constitution of the Diocese of Adelaide” means the constitution set forth in The Diocese of Adelaide Constitution Canon 1979 of the Synod and any amendment thereof;

“the Diocesan Council” means the Diocesan Council of the Diocese of Adelaide referred to in the Constitution of the Diocese of Adelaide;

“the Province of South Australia” includes the Dioceses of Adelaide, Willochra and The Murray and any diocese formed wholly out of such dioceses or any of them;

"the said property” means the whole of the property from time to time subject to the provisions of this deed and includes any additions or accretions thereto;

“the Synod” means the Synod of The Diocese of Adelaide of the Anglican Church of Australia Inc.

AND the Synod HEREBY FURTHER DECLARES that notwithstanding that Keith Rayner, Archbishop of Adelaide, having been appointed to the See of Adelaide signed a declaration in the words contained in the Schedule A annexed

to the said Declaration of Trust dated the 31st day of October 1881 and entered into and signed the agreement with the Dean and Chapter required by clause 13 of the trusts contained in the said Declaration of Trust the said Keith Rayner shall henceforth be bound by the provisions of this deed and by the declaration under his hand and seal made on the 28th day of March 1980 in lieu of the provisions of the said declaration and agreement as aforesaid.

IN WITNESS whereof The Synod of The Church of England in the Diocese of Adelaide Incorporated has hereunto affixed its seal this day of 1980.

SEALED with the Common Seal of THE SYNOD OF THE CHURCH OF ENGLAND IN THE DIOCESE OF ADELAIDE INCORPORATED

by us the undersigned
being persons duly
authorised to use the said Seal

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Sealholders Assented to by Dean and Chapter Inc 23 December 2008.

**Schedule of Property referred to in Recital C
comprising the property of the Trust of The See as at 28 March 1980**

Real Property Particulars

Town Acre 743 and portion of
Town Acre 744, Hundred of Adelaide

Allotment 150 and portion of
Allotments 144 and 146, Hundred of Munno Para Allotment 4, Section 640, Hundred of Willunga
Allotment 5, Section 640, Hundred of Willunga Allotment 6, Section 640, Hundred of Willunga
Allotment 7, Section 640, Hundred of Willunga Section 652, Hundred of Willunga
Section 72, Town of Blanchetown

Personal Property (General Account)

\$4,200 S.A. Gas Company Bond No. 96/742 9.5% redeemable

15/4/83 to the extent of \$1,200

Balance with interest on the following bank accounts:

Savings Bank of S.A., Head Office a/c No. J.4089

a/c No. J.39884

National Bank of Australasia Ltd., Head Office, Church of England Office account, a/c See of
Adelaide.

Balance of funds held by the Synod a/c See of Adelaide invested in loans secured by 1st
mortgages.

(Bishop's Retiring Allowance Reserve Account)

Certificate of Title Register Book

Volume Folio 1048 121 171 186 4142 579 4142 580 4142 581 4142 582 4142 583

172 178

Commonwealth Inscribed Stock

\$400 10% maturing 15/2/85

\$400 10% maturing 5/2/87

\$200 6% maturing 15/10/91

\$1,900 Special Bonds Z series maturing 1/1/83.

Balance with interest of Savings Bank of S.A. Head Office at No. M10141

Balance of Funds held by the Synod a/c See of Adelaide invested in loans secured by 1st
mortgages.

Together with any other property whatsoever whether real or personal subject to the provisions of
the aforesaid declaration of trust dated the 31st day of October 1881.

Legislative History:

Amended 8 August 2012 (Trusts of the See Amendment Ordinance 2012).

Clause 3(1) amended.

Clause 3(2) amended

Sub-clauses 3(2a) and (2b) inserted.

Clause 8 amended: additional definitions inserted.

Amended 18 October 2015 (Trusts of the See Amendment Ordinance 2015)

Clause 3 deleted and new clause 3 substituted

Clause 4 deleted and new clause 4 substituted

Clause 8 amended: 3 additional definitions inserted and 1 definition deleted