



ANNO TERTIO

ELIZABETHAE II REGINAE

A.D. 1954

No. 66 of 1954

An Act to provide for the creation and management of a public reserve to be known as the West Beach Recreation Reserve, and for incidental purposes.

[Assented to 23rd December, 1954.]

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

1. This Act may be cited as the " West Beach Recreation Reserve Act, 1954 ". Short title.

2. In this Act, unless the context otherwise requires—

Interpretation.

" chairman " means the chairman of the trust ;

" constituent council " means the Glenelg council and the West Torrens council ;

" Glenelg council " means the Corporation of the Town of Glenelg ;

" financial year " means the period of twelve months ending on the thirtieth day of June ;

" member " means a member of the trust and includes the chairman ;

" Minister " means the Minister of the Crown to whom for the time being the administration of this Act is committed by the Governor ;

" reserve " means the West Beach Recreation Reserve ;

" trust " means the West Beach Recreation Reserve Trust ;

“ West Torrens council ” means the Corporation of the City of West Torrens.

The West Beach Recreation Reserve Trust.

**Creation and
incorporation
of trust.**

3. (1) There shall be constituted a body to be known as the “ West Beach Recreation Reserve Trust ”.

(2) The trust shall be a body corporate with perpetual succession and a common seal and shall have power to hold property of all kinds and to sue and be sued.

**Membership of
trust.**

4. (1) The trust shall consist of a chairman and six other members.

(2) Of the members other than the chairman three shall be appointed by the Glenelg council and three by the West Torrens council.

(3) The first members other than the chairman shall be appointed by the constituent councils as soon as practicable after the passing of this Act, and every subsequent member, other than a member appointed to a casual vacancy, shall be appointed within three months before the commencement of his term of office.

(4) Every casual vacancy occurring in the office of a member shall be filled as soon as practicable after its occurrence by the constituent council which appointed the member whose office has become vacant.

(5) An appointment of a member shall not be invalid solely on the ground that it was not made within the prescribed time.

(6) A member appointed by a constituent council may be, but need not be, a mayor, alderman or councillor, or an officer of the constituent council.

**Appointment of
chairman.**

5. (1) Forthwith after the appointment of the first members of the trust by the constituent councils, those members shall meet and either at that or some subsequent meeting appoint a person as chairman.

(2) Thereafter within three months before the expiration of the term of office of chairman or whenever a casual vacancy in the office of chairman occurs, the members other than the chairman, shall meet and either at that meeting or some subsequent meeting appoint a person as chairman.

(3) The person appointed as chairman may be but need not be a mayor, alderman or councillor or officer of a constituent council.

6. (1) If a member—

Casual
vacancies.

- (a) resigns by written notice given in the case of the chairman to the mayor of each of the constituent councils and in the case of any other member to the mayor of the constituent council by which the member was appointed ;
- (b) ceases to reside in South Australia ;
- (c) dies ;
- (d) absents himself without permission of the trust from three consecutive meetings of the trust and is declared by resolution of the trust to have forfeited his seat ;
- (e) becomes bankrupt or makes an assignment of his property for the benefit of his creditors or compounds with his creditors for less than twenty shillings in the pound ;
- (f) is removed from the trust by the Governor pursuant to this section,

his seat shall become vacant.

(2) The Governor may remove any member from office for neglect of duty, incapacity to perform his duties, dishonourable conduct, or other cause deemed sufficient by the Governor.

7. (1) As soon as the first chairman and the first members have been appointed, the Minister shall publish in the *Government Gazette* a notice containing their names and addresses and as from the day on which the notice is so published the trust shall be deemed to be duly constituted.

Date of
creation of
trust.

(2) The term of office of the first chairman and the first members shall commence from the day on which the notice aforesaid is published.

8. (1) Subject to this Act, the chairman and the members shall hold office for three years : Provided that any person appointed to fill a casual vacancy shall hold office only for the unexpired portion of the term of the chairman or member, as the case may be, in whose place he is appointed.

Term of
office.

(2) Of the first members appointed by a constituent council, one member shall hold office for one year, one member shall hold office for two years and one member shall hold office for three years.

The members to hold office for one or two years shall be designated by the constituent council at the time of their appointment.

(3) The chairman or any member shall continue to hold office until his successor is appointed.

(4) Any person ceasing to be chairman or a member by reason of the expiration of his term of office shall be eligible for re-appointment.

Chairman to
preside at
meetings.

9. (1) The chairman, when present, shall preside at all meetings of the trust. In the absence of the chairman from any meeting, another member, chosen for the purpose by the majority of the members present and voting, shall preside.

(2) The person presiding for the time being at any meeting of the trust shall have a casting vote as well as a deliberative vote.

Quorum.

10. (1) Four members, of whom at least one shall be a member appointed by the Glenelg council and at least one shall be a member appointed by the West Torrens council, shall be a quorum for the transaction of the business of the trust.

(2) Every matter coming before the trust shall be decided by the votes of a majority of the members present at a duly convened meeting of the trust.

Meetings.

11. The chairman shall convene the first meeting of the trust and all subsequent meetings shall be convened by such person and held at such time and place as the trust determines.

Procedure.

12. The trust may make rules governing its procedure and, subject to this Act and its rules, may regulate its own procedure.

Remuneration
of members.

13. (1) The members shall be entitled to be paid out of the funds of the trust remuneration for their services at rates fixed by the trust but not exceeding one hundred pounds a year for the chairman or fifty pounds a year for any other member.

(2) The chairman and the other members shall be entitled to receive out of the funds of the trust travelling and other out of pocket expenses at such reasonable rates as are from time to time determined by the trust.

14. (1) The trust shall keep proper accounts of all its receipts and payments and shall prepare in each year a summary of its receipts and payments and balance-sheet. Accounts and audit.

(2) The accounts and balance sheet shall be audited by a competent auditor holding a certificate under the Local Government Act, 1934-1954, and appointed by the trust.

(3) A copy of each summary of receipts and payments and each balance-sheet for any financial year, with the auditor's certificate, shall, within four months after the end of that financial year, be sent to each constituent council.

15. An act or proceeding of the trust shall not be invalid solely on the ground that at the time when that act was done or proceeding taken there was a vacancy in the office of any member of the trust, or any defect in the appointment of any member. Validity of proceedings.

16. (1) The trust may appoint a secretary and any other employees whom it requires to assist it in the exercise of its powers and duties. Employees.

(2) The trust may pay such salaries or wages to its employees as the trust from time to time determines. The trust may provide for its employees such superannuation benefits, annual leave, long service leave and sick leave as the trust from time to time determines.

Financial Provisions.

17. (1) As soon as may be after the land referred to in section 29 is transferred to the trust, the Treasurer shall pay to the trust the amount of twenty thousand pounds. Payment by Treasurer of £20,000 to trust.

(2) This Act, without further appropriation, shall be sufficient authority for the Treasurer to pay the amount aforesaid out of the general revenue of the State.

18 (1) During the financial year commencing the first day of July, nineteen hundred and fifty-five, and in each of the six subsequent financial years the Glenelg council and the West Torrens council shall each pay to the trust the amount of fourteen hundred and thirty pounds. Payments by constituent councils.

(2) Every such payment shall be made before the thirty-first day of December in the financial year in which it is to be made.

Additional
payments by
constituent
councils.

19. The constituent councils may, in addition to any amount provided to be paid by section 18, in any financial year occurring after the passing of this Act, pay to the trust any amount thought fit by the council but the total of the amounts to be paid by each of the constituent councils during any financial year shall be equal.

Power to
borrow on
overdraft.

20. The trust may borrow money on overdraft and may give security over any of its property except the reserve for the repayment of any money so borrowed.

Power of
trust to
borrow on
debenture.

21. (1) The trust may for any purpose of this Act borrow money on the security of debentures issued by the trust.

(2) The trust may issue any such debentures.

(3) Any such debentures may confer on the holder thereof a mortgage or charge over any assets of the trust, other than the reserve.

Inscribed
debenture
stock.

22. (1) In any case where the trust has power to issue debentures it may issue inscribed debenture stock instead of such debentures.

(2) On the application of the owner of any debentures issued by the trust the trust may convert them into inscribed debenture stock.

(3) The trust shall keep a register of inscribed debenture stock. The register of inscribed debenture stock is hereinafter in this section called "the register".

(4) The inscribed debenture stock shall be deemed to be issued, and debentures shall be deemed to be converted into inscribed debenture stock, when the name of the owner, and the amount and description of the stock, and any other particulars determined by the trust, are entered in the register.

(5) A person whose name is inscribed in the register as the owner of any inscribed debenture stock shall be deemed to be the owner of that stock and may dispose of and transfer it in the manner prescribed by this section and may give effectual receipts for any money paid to him by way of consideration.

(6) The trust may, if it sees reasonable cause for doing so, issue to any person a certificate stating that any person was, on a day and at an hour mentioned in the certificate, inscribed in the register as the owner of a specified amount of inscribed debenture stock.

Such a certificate shall be *prima facie* evidence of the fact stated therein.

(7) The legal ownership of inscribed debenture stock shall not be transferred from the owner whose name is inscribed in the register to any other person until—

(a) the said owner and the transferee have executed a transfer in a form fixed by the trust, and the name of the transferee and the amount of his stock have been entered in the register ; or

(b) a person to whom the title to any inscribed debenture stock has passed on death or bankruptcy or otherwise by operation of law has produced to the trust such reasonable evidence of his title as the trust requires, and his name has been entered in the register as the owner of the stock.

(8) No notice of any trust, express, implied or constructive, affecting inscribed debenture stock, shall be received by the trust or entered in the register or any other book kept by the trust.

(9) Subject to the provisions of this section relating to the transfer and transmission of inscribed debenture stock and notice of trusts, equitable interests may be enforced against the owners of inscribed debenture stock.

23. The trust shall not borrow any money on the security of debentures or by the issue of inscribed debenture stock except with the consent in writing of each constituent council.

Consent of constituent councils to borrowing.

24. (1) The constituent councils shall make good any default of the trust in meeting any liability of the trust to any person under any debenture or inscribed debenture stock issued by the trust.

Guarantee of debentures and inscribed stock by constituent councils.

(2) The liability under this section of the constituent councils shall be a joint liability but neither constituent council shall be liable to pay more than one half of the liability arising from the default of the trust.

25. This Act shall be sufficient authority for a constituent council to pay out of its revenue any sum which it is pursuant to this Act permitted or required to pay.

Power of constituent councils to meet liabilities under Act.

26. All money received by the trust shall be applied by it towards defraying the cost of carrying out its powers and duties under this Act.

Application of money.

27. The trust and the reserve shall be exempt from State land tax and from rates and other charges payable under the Local Government Act, 1934-1954.

Exemption from land tax and local government rates and charges.

Gifts.

28. The trust may accept gifts of any property.

Vesting and Management of Reserve.

Transfer of
reserve to
the trust.

29. (1) After the day upon which the notice referred to in section 7 is published the Treasurer may transfer to the trust the fee simple in the whole or any part of the land comprised in certificates of title registered in the Lands Titles Registration Office in Register Book, volume 2231, folio 117 and volume 2143, folio 123.

(2) The land so transferred shall thenceforth be known as the "West Beach Recreation Reserve".

(3) No stamp duty under the Stamp Duties Act, 1923-1954, shall be payable in respect of the said transfer.

Reserve to
be public
reserve.

30. The trust shall use and maintain for all time the reserve as a public reserve.

Enlargement
of reserve.

31. (1) The trust may purchase any land for the enlargement of the reserve. No stamp duty under the Stamp Duties Act, 1923-1954, shall be payable in respect of the transfer or conveyance of any such land.

(2) The trust may by notice in the *Government Gazette* declare that any land which it has purchased or which has been given to it shall form part of the reserve.

As from the publication of any such notice the land to which the notice applies shall form part of the reserve within the meaning of this Act.

(3) The trust may by notice in the *Government Gazette* declare that any land which has been added to the reserve under this section shall no longer form part of the reserve.

As from the publication of any such notice the land to which the notice applies shall cease to form part of the reserve.

Control of
foreshore
west of
reserve.

32. (1) That part of the foreshore of the sea which extends between low water mark and that part of the western boundary of the land referred to in section 29 which abuts upon the sea coast shall be under the care, control and management of the trust and shall cease to be under the care, control and management of any municipal council. The said part of the foreshore of the sea is in this Act referred to as "the foreshore".

(2) The trust may plant the foreshore with trees, shrubs or grasses and may erect on the foreshore any structures for the use of the public.

(3) The trust may grant licences to use and occupy any part of the foreshore. Any licence with respect to any part of the foreshore which has been granted by any municipal council and which is current on the day upon which the trust is, under section 7, deemed to be constituted, shall be deemed to have been granted by the trust and shall be construed accordingly.

33. The trust may sell or otherwise dispose of any of its property which is not required for the purposes of the reserve, but shall not have authority to sell any of the land comprised in the certificates of title registered in the Lands Titles Office in Register Book, volume 2231, folio 117, or volume 2143, folio 123. Disposal of surplus property.

34. (1) The trust may construct, erect, build or carry out paths, roads, gardens, lawns, seats, caravan parks, kiosks, refreshment rooms, shelters, places of entertainment, facilities for games and amusements, and any other buildings, structures and works for the improvement or maintenance of the reserve. Improvements.

(2) The trust may erect on the reserve any buildings including guest houses, club houses and buildings of any kind whatsoever thought fit by the trust.

35. (1) The trust may—

Leases.

(a) grant leases of, and licences and other rights to use and occupy any caravan park, kiosk, refreshment room, place of entertainment, facility for games or amusements or any building such as is referred to in section 34 ;

(b) grant leases (including building leases) of, and licences and other rights to any part of the reserve ;

(c) let on hire any equipment for games and amusements ;

(d) demand and receive reasonable rents, fees and charges for any such lease, licence, right or letting on hire.

(2) The trust may make, or permit any person to make, a charge of an amount approved by the trust for entrance to the reserve or any part thereof while an entertainment is being held in the reserve by the trust or by any person with the approval of the trust.

(3) Except as provided in this section no charge shall be made for admission to the reserve or any part thereof.

(4) In this section the word "entertainment" means any festival, fair, carnival, sport, game, cinematograph show, stage play, or other exhibition, amusement or entertainment.

By-laws.

36. (1) The trust may make by-laws—

- (a) for the control, protection and management of the reserve or the foreshore and all property therein;
- (b) for securing orderly and decent behaviour on the part of persons in the reserve or the foreshore and providing for the removal therefrom of any person offending against any by-law;
- (c) regulating or prohibiting the entry of vehicles or animals of any kind into the reserve or the foreshore, or prescribing the conditions on which vehicles or animals of any kind may remain in the reserve or the foreshore; and
- (d) prescribing fines recoverable summarily and not exceeding twenty pounds for breach of any by-law.

(2) A by-law of the trust shall not have effect until confirmed by the Governor.

(3) The trust shall set out the substance of all its by-laws in clearly legible letters on a notice board at the main entrance to the reserve.

*Provision as to Corporation of Henley and Grange.*Provision as
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of Henley
and Grange.

37. (1) The Corporation of the Town of Henley and Grange may enter into arrangements with the trust and the Glenelg Council and the West Torrens Council whereby the said corporation may become a constituent council for the purpose of this Act.

(2) If such arrangements are approved by the Governor the Governor may by proclamation declare that the Corporation of the Town of Henley and Grange shall be a constituent council for the purposes of this Act, and the said corporation shall thereafter be a constituent council for the purposes of this Act.

(3) In the proclamation made as aforesaid or in some subsequent proclamation the Governor may—

- (a) declare that the Corporation of the Town of Henley and Grange shall pay to the trust such amount or amounts as are fixed by proclamation;
- (b) vary any provisions of this Act relating to the obligations of constituent councils or as to the constitution or membership of the trust or otherwise which in the opinion of the Governor are necessary to be varied by reason of the increase in the number of constituent councils.

(4) Any such proclamation shall be as valid and effectual to all intents and purposes as if the matters being provided for had been provided for by this Act.

Power of Resumption.

38. (1) If satisfied that the land to be resumed is required for any purpose which is deemed by the Governor to be a public purpose, the Governor may by proclamation resume any of the land transferred to the trust by the Treasurer pursuant to section 29. Upon any such proclamation being made the land to which it relates shall cease to be part of the reserve and shall be deemed to be Crown lands.

Power to
resume land
in reserve.

(2) No compensation shall be payable to the trust in respect of any land so resumed but the trust shall be entitled to be paid as compensation for any buildings erected and any improvements made by the trust on the land resumed and existing thereon at the time of the resumption such amount as the Governor deems fit and proper.

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

R. A. GEORGE, Governor.