



**NETHERBY KINDERGARTEN (VARIATION OF WAITE TRUST) ACT
1997**

No. 15 of 1997

SUMMARY OF PROVISIONS

1. **Short title**
2. **Variation of Waite Trust**
3. **Immunity from liability for breach of trust**

SCHEDULE



ANNO QUADRAGESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1997

No. 15 of 1997

An Act to allow Netherby Kindergarten to remain on land owned by the University of Adelaide that is subject to the terms of the Peter Waite Trust for the establishment of a public park or garden; and for related purposes.

[Assented to 27 March 1997]

Preamble

1. By a transfer dated 29 January 1914, certain land at Urrbrae, being the whole of the land comprised in Section 268 of the Hundred of Adelaide, was transferred in fee simple by Peter Waite to the University of Adelaide ("the University").
2. By virtue of an indenture ("the Trust") made on the same day between Peter Waite and the University, the transferred land is held by the University subject to various trusts, the relevant trust being that the western half of Section 268 is to be preserved in perpetuity as a park or garden for the recreation and enjoyment of the public (a part of which may be used as a sports ground for the University).
3. Since approximately 1945 the University has allowed a portion of the land in that western half (being the portion of land marked "A" in the plan in the schedule) to be occupied by Netherby Kindergarten ("the Kindergarten") now a registered children's services centre under the *Children's Services Act 1985*.
4. Despite the fact that the Kindergarten has over its 50 year occupation expended considerable sums of money on development of the site and that plans exist for the expenditure of approximately \$500 000 on the construction of new buildings, the Kindergarten has no lease or security of tenure over the land.
5. It is desirable that the Kindergarten's long occupation and future occupation of that land be regularised.

The Parliament of South Australia enacts as follows:

Short title

1. This Act may be cited as the *Netherby Kindergarten (Variation of Waite Trust) Act 1997*.

Variation of Waite Trust

2. (1) The terms of the Trust are varied so as to empower the University to grant a lease over the land marked "A" in the plan in the schedule for the purposes of the provision of pre-school education or other related services on the land.

(2) The Minister will determine whether the lease is to be granted to the Minister or the Kindergarten or to the Minister and the Kindergarten jointly.

(3) Despite any other Act or law, a lease may be granted under this section for such term and on such other terms and conditions (which may include a right for the lessee to occupy the land free of rent or at a nominal rent) as may be agreed between the parties to the lease.

(4) The approval of the Governor is not required in relation to the granting of a lease by the University under this section.

Immunity from liability for breach of trust

3. No person is liable at law or in equity for breach of trust by virtue of anything done under this Act or by virtue of the Kindergarten's occupation before the commencement of this Act of the land delineated in the schedule.

SCHEDULE

GP 490/96

PLAN FOR LEASE PURPOSES
HUNDRED OF ADELAIDE
ALLOTMENT 101 IN FP 16164
OF PORTION OF SECTION 268
IN THE AREA NAMED
URRBRAE

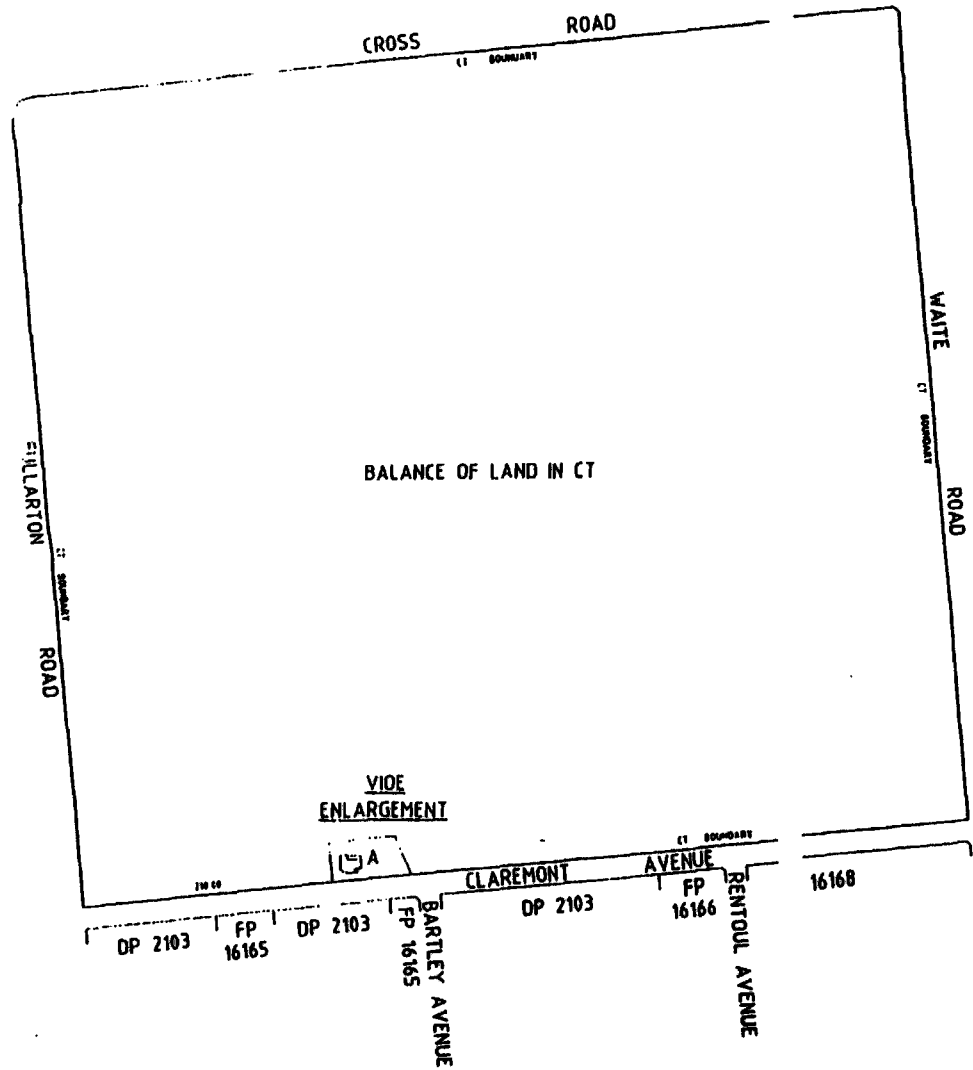
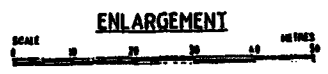
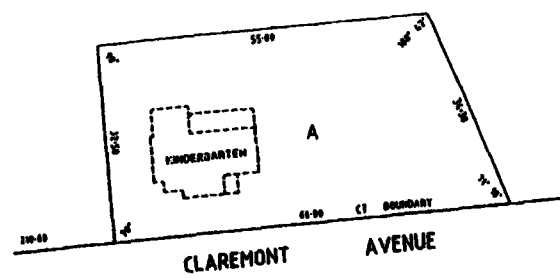


TITLE REFERENCE
CT 5299/271

FOR DATA, DISPOSITION AND DELINEATION
OF SERVICENT EASEMENT VIDE CT 5299/271



BALANCE OF LAND IN CT



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

E. J. NEAL, GOVERNOR