

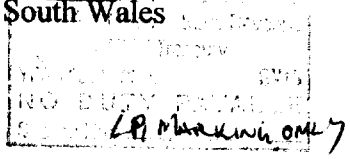
DATED *6th January* ~~2002~~ ²⁰⁰³

DEED OF DECLARATION VARYING TRUST

THE COUNCIL OF THE CITY OF GOSFORD

P.J. Donnellan & Co
Solicitors
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Gosford NSW 2250
DX 7206 Gosford
Tel: 4324 3988
Fax: 4323 1623

THIS DEED OF DECLARATION OF TRUST is made the 6th day of January 200² **BY THE COUNCIL OF THE CITY OF GOSFORD** of 49 Mann Street, Gosford in the State of New South Wales



WHEREAS:

- 1.1 The Council at its meeting of 22 October, 2002 resolved to vary the terms of a Deed dated 20th October, 1988, a copy of which Deed is hereunto annexed and marked with the letter "A" pursuant to its power to do so therein contained by virtue of Clause 2.6 thereof.
- 1.2 The Council at its meeting of 27 November, 1990 had previously resolved to vary the terms of the Deed and a copy of that Deed dated 29 May, 1991 is annexed and marked with the letter "B".

NOW THIS DEED WITNESSETH THAT:

2.1 The Council hereby varies the public institutions and schedules set forth in Schedule I of the deed annexed hereto and marked with the letter "A" by the addition of the following clause:

- 13. For or towards the acquisition, maintenance, preservation, enhancement or embellishment of land which is in the opinion of the Council environmentally sensitive land.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals on the day and the year first hereinbefore mentioned.

EXECUTED BY AND ON BEHALF OF GOSFORD CITY COUNCIL BY:

executed for the Council of the City of Gosford by Alan John Ford pursuant to Deed of Power of Attorney registered on the 11 November 1996 Book 4150 Numbered 130 and I declare that at the time of the execution by me of this instrument I have no notice of the revocation of the said Power of Attorney.

JUDITH HOLLIER

Witness

A

THE CITY OF GOSFORD ARTS FOUNDATION

THIS DEED OF TRUST is made the Twentieth day of October One thousand nine hundred and eighty-eight by THE COUNCIL OF THE CITY OF GOSFORD of 49 Mann Street, Gosford, in the State of New South Wales pursuant to a resolution of the Council made on the Twentieth day of September 1988.

WHEREAS

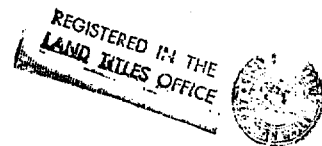
1.1 The Council of the City of Gosford has decided to encourage and facilitate the benevolent acts of those public spirited citizens who wish to make gifts for the benefit of the public within the City of Gosford by declaring itself willing to act as a Trustee of such gifts and to prescribe the terms and conditions upon which it will so act.

NOW THIS DEED WITNESSETH THAT:

2.1 The Council shall act as a Trustee of gifts made to it for the purposes prescribed in the Schedules to this Deed on the following terms and conditions:-

2.2 GIFTS OF CASH:

- (a) Gifts may be made in the form of cash.
- (b) The Council shall be entitled to decide whether or not it will accept any gift.
- (c) Gifts of cash shall be kept by the Council in a special trust fund kept and audited pursuant to the Local Government Act and the donor of each gift and the purpose for which each gift has been made shall be recorded in the fund's books of account, and it is expressly provided that any money (including income derived from investments and produced from the realisation of investments) paid or accrued to the fund as a direct or indirect result of the particular gift, not applied for the purposes provided for in the memorandum, otherwise than in this clause, may not be invested by the trustee, otherwise than in a manner which trustees are permitted by the Act, a State Act or a law or a territory of the Commonwealth to invest trust monies without special authorisation.
- (d) Gifts of cash made for the same purpose may be aggregated to fulfil that purpose where they are insufficient by themselves to realise that purpose.
- (e) A suitable public acknowledgement of the Donor's gift shall be made in all cases where the purpose of a gift of cash has been realised either singly or by aggregation upon or in the vicinity of the realisation or where that is not feasible in the opinion of the Trustee in some other suitable public place.



- (f) Gifts of cash shall not be used by the Trustee for purposes other than those contained in Schedule I hereto and nominated by the Donor.
- (g) Where a Donor makes a gift of cash to the Trustee for the benefit of the public of the City of Gosford pursuant to this Deed but fails to nominate a purpose contained in Schedule I hereto for which such gift is given, the Trustee may at its discretion nominate the purpose from Schedule I to which such gift shall be applied.

2.3 GIFTS OF PERSONAL PROPERTY:

- (a) Gifts of valuable personal property may be made to the Trustee for those public purposes and those public institutions prescribed in Schedule II to this Deed.
- (b) The Trustee or its duly appointed Representative shall be entitled to decide whether or not it will accept any gift of personal property.
- (c) Gifts of personal property shall be kept in safe custody by the Trustee enrolled in a suitable catalogue to facilitate location, identification and the name of its Donor. Such gifts shall be publicly displayed for a suitable period at least once every two years unless the nature of the property renders it unfeasible to do so.
- (d) Donors of personal property may empower the Trustee to convert their gift into cash immediately or after a period of time for the purposes of acquiring more valuable personal property to be used for the purposes originally nominated by the Donor.
- (e) A suitable public acknowledgement of the Donor's gift of personal property shall be made upon or in the vicinity of that property, or after conversion of a gift to cash and reconversion into other property, that other property or because of the nature of that property it is not feasible in the opinion of the Trustee to do so, in some other suitable public place.
- (f) Where a Donor makes a gift of personal property to the Trustee for the benefit of the public of the City of Gosford pursuant to this deed but fails to nominate a public purpose or public institution contained in Schedule II hereto for which such gift is given, the Trustee may at its discretion nominate the public purpose or public institution from Schedule II to which such gift shall be applied.

2.4 GIFTS OF REAL PROPERTY:

- (a) Gifts of real property may be made to the Trustee for those public purposes prescribed in Schedule III to this Deed.
- (b) The Trustee shall be entitled to decide whether or not it will accept any gift of real property.
- (c) Gifts of real property made pursuant to this Deed shall be recorded in a special register maintained by the Trustee containing particulars of its Title and its Donor.
- (d) In no case where the Trustee accepts a gift of real property pursuant to this Deed shall the Donor be required to pay the costs of and incidental to the Transfer of such real property nor be responsible for its upkeep and maintenance.
- (e) A suitable public acknowledgement of the Donor's gift shall be made in all cases upon or in the vicinity of the gift or where that is not feasible in the opinion of the Trustee, in some other suitable public place.
- (f) Gifts of real property shall not be used or permitted to be used by the Trustee for purposes other than those permitted by Schedule III hereto and nominated by the Donor.
- (g) Where a Donor makes a gift of Real Property to the Trustee for the benefit of the public of the City of Gosford pursuant to this Deed but fails to nominate a purpose contained in Schedule III hereto for which such gift is given, the Trustee may at its discretion nominate the purpose from Schedule III to which such gift shall be applied.

2.5 INCOME TAX AND STAMP DUTIES BENEFITS:

Gifts may be made pursuant to this Deed whilst the Donor is living or by his Will and the Trustee undertakes to establish the purposes and institutions set forth in the schedules hereto as charitable purposes and institutions within the meaning of the Stamp Duties Act NSW, and the Income Tax Act and where applicable, public museums, public libraries or public art galleries for the purposes of that latter Act.

The Council will for the purpose of the latter Act establish separate funds pursuant to this Deed of Trust for the purposes of the objects in Schedule I numbered 1, 2, and 9.

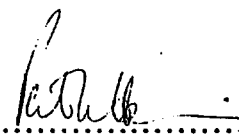
2.6 THE SCHEDULES:

The Council of the City of Gosford may by resolution add to, subtract from and otherwise vary at any time the public purposes and institutions set forth in Schedules I, II and III hereto.

2.7 The Trustee shall not be obliged to use gifts of real property for the purpose for which they are made pursuant to this Deed where the realisation of that purpose requires the expenditure of money unless such money is made available by the Donor or until such time as the Trustee has sufficient money available for such realisation either from other gifts made pursuant to this Deed or from Gosford City Council's other financial resources.


THE COMMON SEAL of THE COUNCIL
OF THE CITY OF GOSFORD was hereunto
affixed in pursuance of an express
order of the Council dated the
Twentieth day of September 1988.

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Mayor

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Town Clerk

SCHEDULE I

- 1 Gosford Public Library
 - for the purposes of
 - for the acquisition of some particular object.
- 2 Gosford City Public Art Gallery
 - for the acquisition of works for
 - for the acquisition of a particular work
 - for the acquisition, construction or maintenance of a gallery.
- 3 Gosford City Orchestra
 - for the purchase of music
 - for the purchase of instruments or other equipment
 - for the provision of scholarships for musicians
 - for the construction or maintenance of a music shell.
- 4 Gosford City Band
 - for the purchase of music
 - for the purchase of instruments or other equipment
 - for the provision of scholarships for musicians
- 5 For the provision of a bench, a ha-ha, a folly, a fountain, exotic garden, statue, bubbler, barbecue, work arbor or other nominated decoration, embellishment or enhancement or for the maintenance work thereof in any public park, garden reserve, or place under the care, control and management of Gosford City Council specified or not specified within the City of Gosford.
- 6 For the provision of decorated pavements, shelters, ornamental shrubbery and trees more elaborate than those normally provided by Council or for the maintenance thereof in any public place within the City of Gosford.
- 7 For the maintenance of any nominated public place within the City of Gosford.
- 8 For the provision, acquisition or maintenance of any public sporting ground or facility specified or not specified within the City of Gosford.
- 9 For the acquisition or maintenance of any historic object, artefact, document or place within the City of Gosford for the City of Gosford public museum.

SCHEDULE II

- 1 Gosford Public Library.
- 2 Gosford City Art Collection.
- 3 Gosford City Orchestra.
- 4 Gosford City Band.

SCHEDULE III

- 1 For a Public Reserve or for addition to an existing Public Reserve.
- 2 For drainage or roads.
- 3 For access to a public place.
- 4 For addition to Council's open space programme.
- 5 For a public library, rest centre, hospital, hostel, refuge, health centre, community centre, aged persons centre, public hall, gymnasium, child care centre, war memorial, art gallery, performing arts centre, educational establishment.
- 6 For a public garden or zoo.
- 7 For a public sporting ground or facility.

"B"

THIS DEED OF DECLARATION OF TRUST is made the 29th day of May 1991
BY THE COUNCIL OF THE CITY OF GOSFORD of 49 Mann Street, Gosford, in the
State of New South Wales

WHEREAS:

1.1 the Council at its meeting of the 27th November, 1990, resolved to vary the terms of a deed dated 20th October, 1988, a copy of which deed is hereunto annexed and marked with the letter "A" pursuant to its power to do so therein contained by virtue of clause 2.6 thereof.

NOW THIS DEED WITNESSETH THAT:

2.1 the Council hereby varies the public institutions and schedules set forth in Schedule I of the deed annexed hereto and marked with the letter "A" by the addition of the following clauses:

10. For or towards the planning, design, provision and maintenance of any work of art used or to be used for the decoration embellishment or enhancement of any building, venue or place, whether indoors or outdoors, used or intended to be used by members of the public at all times or from time to time within the City of Gosford.

11. For or towards the provision of workshops, seminars, festivals, lectures, demonstrations, classes and concerts, and costs ancillary thereto, in any area of the plastic or performing arts, within the City of Gosford which entail the active participation of members of the public under the tutelage of personnel who are professionals or acknowledged experts.

12. Gosford City Performing Arts Centre

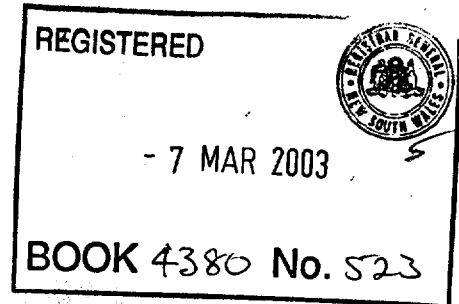
For or towards the planning, design, provision and maintenance of a theatre or performing arts centre within the City of Gosford and for or towards the establishment and maintenance of theatrical programmes, performing arts companies and the production costs associated therewith.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals on the day and the year first hereinbefore mentioned.

THE COMMON SEAL of
THE COUNCIL OF THE CITY OF
GOSFORD was hereunto affixed
on the 29th day of May
1991 in pursuance of an express
Order of the Council dated
the 14th September, 1982.

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Mayor.

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Town Clerk.



CITYLINK & LEGALITIES

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