

# C.B. Alexander Foundation Incorporation Act 1969 No 61

[1969-61]



New South Wales

## Status Information

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

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# C.B. Alexander Foundation Incorporation Act 1969 No 61



New South Wales

An Act to constitute the C.B. Alexander Foundation and to define its objects and powers; to authorise the making and performance of an agreement relating to the taking over by the Minister of responsibility for the operation, maintenance and management of the C.B. Alexander Agricultural College; and for purposes connected therewith.

## 1 Name of Act

This Act may be cited as the *C.B. Alexander Foundation Incorporation Act 1969*.

## 2 Definitions

In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

**estate trustees** means trustees for the time being of the Will.

**Foundation** means C.B. Alexander Foundation constituted by this Act.

**member** means member of the Foundation.

**order** means decretal order dated the seventeenth day of May, one thousand nine hundred and sixty-three made by the Supreme Court of New South Wales that approved the proposals made by the Presbyterian Church of Australia in New South Wales in the matter of the trusts of the Will.

**the C.B. Alexander Agricultural College** means the college that, immediately before the commencement of this Act, was maintained pursuant to the order on the land described in the Schedule to this Act and includes any college or like institution maintained after that commencement under that name, or under any other name, on that land or any part thereof, whether or not the same college or like institution is also maintained on other land.

**the Will** means the will and two codicils of Charles Boyd Alexander late of "Tocal", Paterson, New South Wales.

**Trust** means The Presbyterian Church (New South Wales) Property Trust.

**trust property** means land and other property vested in or belonging to the Foundation but does not include:

- (a) moneys paid to the Foundation under section eight of this Act or any interest thereon or income therefrom or investment thereof or any conversion of any such investment, or
- (b) property that, immediately before it vested in the Foundation, was held by the estate trustees in connection with the payment under the Will of annuities to Margarita Curtis and Myrtle Eliza Curtis or to or in respect of any income therefrom or interest thereon or investment thereof or any conversion of any such investment.

### **3 Constitution of Foundation**

- (1) There is hereby constituted a corporation under the corporate name of "C.B. Alexander Foundation".
- (2) The members of the Foundation shall be appointed by the Minister and shall consist of five persons, of whom:
  - (a) one shall be Edward Alan Hunt, Esquire, or if he is unable or unwilling to act as a member or vacates his office as a member, such person as he may nominate to the Minister for the purpose before or at the time notice of his inability or unwillingness is given to the Minister, or his office as a member is vacated, as the case may be, whether or not such a nomination is made before or after the commencement of this Act or, in default of any such nomination, the law agent of the Presbyterian Church of Australia in New South Wales at the time of that inability, unwillingness or vacation of office, and
  - (b) one shall be Colin Hector Dunlop, Esquire, while he remains one of the estate trustees.
- (3) The Minister may, by the instrument of appointment or by another instrument, appoint a member to be the Chairman of the Foundation.
- (4) A member (other than a member referred to in paragraph (a) or (b) of subsection two of this section) shall, subject to this Act, hold office as a member for such period, not exceeding seven years, as may be specified in the instrument of appointment and shall, subject to this Act, be eligible for reappointment.
- (5) (Repealed)
- (6) Where there is a vacancy in the membership of the Foundation, the Minister may, subject to this Act, appoint a person to the vacancy.
- (7) A member who is not an officer of the Public Service or of a statutory body representing the Crown shall receive from the funds of the Foundation such remuneration and allowances, and a member who is such an officer shall receive from

those funds such allowances, as the Foundation determines and the Minister approves.

- (8) Where by or under any Act provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, that provision shall not operate to disqualify him from holding that office and also the office of a member.
- (9) The office of a member shall, for the purposes of any Act, be deemed not to be an office or place of profit under the Crown.
- (10) A member shall be deemed to have vacated his office:
- (a) if he dies,
  - (b) if he becomes bankrupt, compounds with his creditors, or makes any assignment of his salary, remuneration, allowances or estate for their benefit,
  - (c) if he becomes a mentally ill person, a protected person or an incapable person within the meaning of the *Mental Health Act 1958*,
  - (d) if he or she is convicted in New South Wales of an indictable offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable,
  - (e) if he resigns his office by writing under his hand addressed to the Minister,
  - (f) if he is removed from office by the Minister,
  - (g) if he ceases to hold a qualification by virtue of which he was appointed, or
  - (h) if, at the time of his appointment as a member, he was an officer of the Public Service or of a statutory body representing the Crown and he ceases to be such an officer.
  - (i) (Repealed)
- (11) The Minister may, for any cause which appears to him sufficient, remove any member from office.
- (12) The common seal of the Foundation shall be kept in the custody of the Chairman of the Foundation and shall not be affixed to any instrument except in pursuance of a resolution of the Foundation.
- (13) The procedure for the calling of meetings of the Foundation and for the conduct of business at such meetings shall, subject to this Act, be as determined by the Foundation.

- (14) The Chairman, or in the absence of the Chairman, the member chosen by the members present at the meeting to act as Chairman, shall preside at any meeting of the Foundation.
- (15) Three members shall form a quorum and any duly convened meeting of the Foundation at which a quorum is present shall be competent to transact any business of the Foundation and shall have, and may exercise and discharge, all the powers, duties and functions of the Foundation.
- (16) The Chairman or member acting as Chairman at any meeting of the Foundation shall, in the event of an equality of votes, have in addition to a deliberative vote a second or casting vote.
- (17) A decision of a majority of the members present at a duly convened meeting of the Foundation at which a quorum is present shall be a decision of the Foundation.
- (18) No matter or thing done, and no contract entered into by the Foundation, and no matter or thing done by any member or by any other person acting under the direction of the Foundation shall, if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject them, or any of them, personally to any action, liability, claim or demand whatsoever.

#### **4 Objects**

The objects of the Foundation shall be:

- (a) to promote and advance, either alone or in conjunction with the Minister, agricultural education at the C.B. Alexander Agricultural College or at any other agricultural college or agricultural institution,
- (b) to advise and assist, as far as is practicable, the Minister in the operation and maintenance of the C.B. Alexander Agricultural College,
- (c) to take or accept any gift, subsidy or endowment, whether subject to any special trust or not, for all or any of the objects of the Foundation and to carry out any special trust to which such gift, subsidy or endowment may be subject according to the terms thereof,
- (d) to effect improvements to the C.B. Alexander Agricultural College or other agricultural colleges or agricultural institutions,
- (e) to grant scholarships or financial assistance to students attending the C.B. Alexander Agricultural College,
- (f) to support with or without grant of financial aid and whether or not initiated by the Foundation any scheme or activity which in the opinion of the Foundation is capable of assisting in the advancement of agricultural education in the State of New South

Wales, and

- (g) to do such supplemental, incidental and consequential acts as may be necessary or expedient for the exercise or discharge of its powers, duties and functions under this Act.

## **5 Agreement for vesting of certain property**

- (1) Subject to this Act, the Minister on behalf of Her Majesty, and the Treasurer, may enter into an agreement with the Trust for and with respect to:
- (a) the handing over to the Minister of the operation, maintenance and management of the C.B. Alexander Agricultural College pursuant to this Act,
  - (b) the vesting in Her Majesty of:
    - (i) the land described in the Schedule to this Act or any part thereof,
    - (ii) any other land that, pursuant to the order, was vested in the Trust before the commencement of this Act, and
    - (iii) any other land used for the purposes of, or in connection with, the C.B. Alexander Agricultural College,
  - (c) the assurance to the Foundation, for the purposes of this Act and by direction of the Minister on behalf of Her Majesty, of the land the subject of the agreement,
  - (d) the transfer to Her Majesty of personal property used or produced for the purposes of, or in connection with the operation, maintenance or management of, the C.B. Alexander Agricultural College,
  - (e) the consideration in money to be paid by the Treasurer for the performance of the agreement by the Trust,
  - (f) the giving of any indemnity with respect to any obligation of the Trust in connection with the Will or order,
  - (g) the payment of moneys to the Trust for the purpose of discharging any liability of the Trust or any other person incurred, or to be incurred, in connection with the C.B. Alexander Agricultural College, and
  - (h) such other matters and things as, in the opinion of the Minister and the Treasurer, are connected with or incidental to the matters referred to in paragraphs (a), (b), (c), (d), (e), (f) and (g) of this subsection.
- (2) The *Stamp Duties Act 1920* shall not apply to or in respect of:
- (a) any instrument executed after the commencement of this Act whereby any real or personal property is, or is agreed to be, conveyed, transferred or leased to the

Foundation,

(b) any devise or bequest in favour of the Foundation taking effect after that commencement, or

(c) the receipt of money by the Foundation.

(3) All acts, matters or things that, by an agreement entered into under subsection one of this section are agreed, directed, authorised or permitted to be done or executed thereunder may, notwithstanding anything in the Will, the order or any other Act, be done or executed without any further authority than this Act.

(4) Subject to this Act, trust property shall be held by the Foundation upon trust for Her Majesty for the purposes of the C.B. Alexander Agricultural College.

(5) The Foundation shall not, without the consent of the Governor, alienate, mortgage, charge or demise any trust property.

#### **6 Minister to operate the C.B. Alexander Agricultural College**

(1) Subject to this Act, on and from a day specified for the purpose in, or determined in a manner specified for the purpose in, an agreement entered into under subsection one of section five of this Act, the Minister shall be responsible for the operation, maintenance and management of the C.B. Alexander Agricultural College.

(2) For the purposes of subsection one of this section, the Minister shall have and may exercise in respect of any trust property, such powers, authorities, duties and functions as he would have if that trust property were vested in Her Majesty.

#### **7 Variation of order**

Where, pursuant to the order, any land or other property would, but for this subsection, be vested in the Trust after the commencement of this Act, the order shall be deemed to have been varied to the extent necessary to provide for that land or other property to be vested in the Foundation.

#### **8 Endowment**

(1) The Treasurer may, in the year commencing upon the commencement of this Act and in each succeeding year, pay to the Foundation by way of endowment such sum of money as the Treasurer deems necessary to enable the Foundation to carry out its objects under this Act in so far as they relate to the C.B. Alexander Agricultural College.

(2) Any moneys payable by the Treasurer under this section shall be paid out of moneys provided by Parliament.



## **9 Investment of funds by Foundation**

- (1) Subject to subsection two of this section, the Foundation may invest its funds in such manner as the Minister may approve.
- (2) Where the donor of a gift to the Foundation imposes a condition or gives a direction in relation to the gift, the Foundation may invest the gift in accordance with the condition or direction.

## **10 Report and audit of accounts of Foundation**

The Foundation shall, in the year commencing on the commencement of this Act, and in each year thereafter, and at such other times as the Minister may specify, prepare and submit to the Minister a report of its activities together with a balance sheet and statement of its financial position, duly audited by an auditor appointed by the Foundation and approved by the Minister.

## **11 Contracts by Foundation**

- (1) Contracts on behalf of the Foundation may be made as follows:
  - (a) a contract that if made between private persons would be by law required to be in writing under seal may be made on behalf of the Foundation in writing under the common seal of the Foundation,
  - (b) a contract that if made between private persons would be by law required to be in writing signed by the parties to it may be made on behalf of the Foundation in writing signed by any person acting under its express or implied authority,
  - (c) a contract that if made between private persons would be valid by law although made by parol only (and not reduced into writing) may be made by parol on behalf of the Foundation by any person acting under its express or implied authority.
- (2) Any contract made in accordance with subsection (1):
  - (a) is effectual in law and binds the Foundation and its successors and all other parties to the contract, and
  - (b) may be varied or discharged in the manner in which it was authorised to be made.

## **12 Certain rights not to be affected**

Nothing in this Act shall be construed as operating, or as authorising the doing of any thing, in a manner that would prejudice or affect any right or interest of Margarita Curtis or Myrtle Eliza Curtis.

## **13 Exemption from local government rates**

The C.B. Alexander Agricultural College shall be deemed to be a school to which section

555 (1) (f) of the *Local Government Act 1993* applies and, for the purposes of that paragraph:

- (a) land occupied and used in connection with that college,
- (b) land used as a playground in connection with that college, and
- (c) land occupied and used for a residence by a caretaker, servant or teacher of that college and used in connection therewith,

shall, if it is vested in the Foundation, be deemed to belong to that college.

## **Schedule**

(Section 5)

The whole of the land comprised in Certificate of Title Volume 221 Folio 60.

The whole of the land comprised in Certificate of Title Volume 195 Folio 128.

The whole of the land comprised in Certificate of Title Volume 5122 Folio 193.

The residue of the land comprised in Certificate of Title Volume 4264 Folio 146 after the issue of Certificate of Title Volume 10479 Folio 250 and resumption of the land referred to in Dealing No K412110.