

South Australia

Kapunda Hospital (Variation of Trust) Act 2009

An Act to allow for land subject to the Kapunda Hospital trust to be used for other purposes approved by the Minister if no longer required for the purposes of the Hospital.

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Preamble

- 1 The Kapunda Hospital trust (the *trust*) was made on 27 September 1877. The trust deed requires the land subject to the trust, buildings subject to the trust, and any buildings subsequently erected on the land subject to the trust, to be used for the purposes of a hospital known as the *Kapunda Hospital*. The terms of the trust do not permit the land or buildings subject to the trust to be used for any purpose that is not ancillary to that purpose.
 - 2 In 2005, the trustee at the time under the trust, entered into an agreement with Child Care Services Australia Pty Ltd (*CCS*) for *CCS* to construct, occupy and operate a child care centre on a portion of the land subject to the trust, despite that purpose not being supported by the terms of the trust.
 - 3 *CCS* has operated a child care centre on a portion of the land subject to the trust since November 2006, with a lease agreement purportedly being entered into on 27 March 2007. The operation of the child care centre is beneficial to the whole of the local community, including the Kapunda Hospital.
 - 4 It is desirable that the terms of the trust be varied so as to empower the trustee under the trust to allow the land subject to the trust not required for the purposes of the Kapunda Hospital to be used for any other purpose approved by the Minister (including for the purposes of providing child care and other related services).
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The Parliament of South Australia enacts as follows:

1—Short title

This Act may be cited as the *Kapunda Hospital (Variation of Trust) Act 2009*.

2—Interpretation

In this Act, unless the contrary intention appears—

trustee means the Eudunda Kapunda Health Advisory Council Inc and every subsequent trustee of the trust;

trust land means the whole of the land comprised and described in Limited Certificate of Title Register Book Volume 5696 Folio 901.

3—Variation of Kapunda Hospital trust

- (1) The terms of the Kapunda Hospital trust are varied so that the trustee, with the approval of the Minister, has all the powers necessary to allow any trust land not required for the purposes of the Kapunda Hospital to be used for any other purpose approved by the Minister (including the provision of child care services, early childhood intervention services and other related services).
- (2) Despite any other Act or law, a lease may be granted for the purposes of this section for such period 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—Immunity from liability for breach of trust

No liability attaches to a person for breach of trust by virtue of anything done under this Act or by virtue of the occupation of a portion of the trust land for the purposes of providing child care and other related services before the commencement of this Act.

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal Act

Year	No	Title	Assent	Commencement
2009	5	<i>Kapunda Hospital (Variation of Trust) Act 2009</i>	26.2.2009	26.2.2009