

DEED OF TRUST

THE PHIL LITTLE SUSTAINABLE DESIGN FOUNDATION

THIS DEED is made on 12 July 2007

BETWEEN: Mr Robert George Lunney
21 Devonhill Street
THE GAP QLD 4061
(hereafter called "the Settlor")
of the one part

AND: The Trustee of the Phil Little Sustainable
Design Foundation
PO Box 641
FORTITUDE VALLEY QLD 4006
(hereafter called "the Trustee")

RECITALS:

- A. The Settlor desires to establish and maintain a public fund to be held by the Trustee for the purpose of the objects of the Trust. The public fund is to be called the PHIL LITTLE SUSTAINABLE DESIGN FOUNDATION PUBLIC FUND for the specific purpose of supporting the environmental objects/purposes of THE PHIL LITTLE SUSTAINABLE DESIGN FOUNDATION. The Fund is established to receive all gifts of money or property for this purpose and any money received because of such gifts must be credited to its bank account. The Fund must not receive any other money or property into its account and it must comply with subdivision 30-E of the *Income Tax Assessment Act 1997*.
- B. The Settlor desires that such fund shall be truly public in nature and that therefore the Trustee shall use its best endeavours to invite and attract further contributions to the fund from the widest selection of the community for the specific purpose of supporting the environmental objects/purposes of the Trust on the terms and conditions set out in this Deed.
- C. The Settlor believes that the incentive to make contributions to the fund will be enhanced by the right of any donor to claim an allowable deduction from their gross income to the extent of any donation in excess of two dollars.
- D. The Trustee is prepared to accept donations and administer a public fund established in accordance with the Settlor's intention as stated above.
- E. The Settlor has on or before the execution of this Deed paid to the Trustee the sum of ten dollars to the intent that the said sum shall be held by the Trustee for the purposes /objects of the trust.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed, unless the context otherwise permits:

- A “Committee of Management” means the persons appointed to the Committee of Management established in accordance with this Deed.
- B “Trust” means the PHIL LITTLE SUSTAINABLE DESIGN FOUNDATION.
- C “Fund” means the PHIL LITTLE SUSTAINABLE DESIGN FOUNDATION PUBLIC FUND.
- D “Tax Act” means the *Income Tax Assessment Act 1936*, the *Income Tax Assessment Act 1997* and all future legislation that confers exemptions from liability to pay tax and/or permits tax deductibility for donations.
- E “The Department” means the Department of the Environment and Heritage of the Commonwealth of Australia or such Department as replaces that Department.
- F “Trustee” means the party described as the Trustee or any substitute or replacement trustee for the time being of the Trust.
- G “Year” means:
- (a) The period from the date of this Deed until 30 June 2008; or
 - (b) The period commencing on each successive 1 July and concluding on 30 June in the following year.
- H The Trust is established as an environmental organisation for the following purposes:
- (a) to conserve and protect the natural environment (air, land, water and all biodiversity) by appropriate sustainable design of urban development
 - (b) to conserve and protect the natural environment directly by demonstrating how practical environmental impact reduction solutions may be achieved through less intrusive new urban forms and development models
 - (c) to design and publicly demonstrate practical, affordable, urgently needed energy, water and solar energy conservation and utility systems to reduce urban development impacts on the natural environment
 - (d) to integrate the principles of the United Nations Agenda 21 Chapter 7, and the Australian Government’s National Strategy for Ecologically Sustainable Development, into ecologically sustainable development solutions to be researched, designed and demonstrated

- (e) to promote to industry and provide education and training for industry, local authorities, communities, (in particular for indigenous communities), scientific and training organisations and universities, the research and design of proposals for sustainable living and sustainable communities
- (f) to collaborate research with universities to demonstrate the “Triple Bottom Line” solution to sustainability of human settlement in which the dimension of Environment and Social needs may need to subordinate the current economic aspects
- (g) to influence global and local authorities to adopt localisation of infrastructure and urban design using twenty-first century technology rather than nineteenth century centralised grid infrastructure. To design out unsustainable practices of human settlement in the interests of unborn generations as per United Nations Agenda 21 in a manner to protect the natural Environment from increased urbanization
- (h) to design solutions to reduce impacts on the natural environment, by promoting an acknowledgement that the problems are a threat and that they can be overcome by remedial research and design
- (i) to make all levels of industry and commerce aware that “Triple Bottom Line” design demands that at all levels of urban planning and construction, design decisions must be interrogated accountably (environmentally and socially) in priority to vested interests and profit, to protect the natural environment
- (j) to be proactive in making Industry aware not to choose to ignore negative Social and Environment impacts caused by 19th Century Urban Development which will impact on the natural environment and hence on future generations
- (k) to be proactive in making Industry aware that in many cases poor Design Decisions will result in permanent and serious negative impacts on the natural environment and future generations.

1.2 General

In this Deed, unless the context otherwise requires:

- (a) The singular includes the plural and vice versa;
- (b) A reference to an individual or person includes a Corporation, partnership, joint venture, association, authority, trust, state; or government and vice versa;
- (c) A reference to any gender includes all genders;
- (d) A reference to a recital, clause, schedule, annexure or exhibit is to a recital, clause, schedule, annexure or exhibit of or to this Deed;
- (e) A recital, schedule, annexure or a description of the parties forms part of this Deed;

- (f) Where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning; and
- (g) A reference to a statutory provision includes a reference to that provision as amended or substituted from time to time and any provision replacing the first provision referred to.

1.3 Headings

In this Deed headings are for convenience of reference only and do not affect interpretation.

2. THE FUND

2.1 Informing the Department

The Trust must inform the Department responsible for the environment as soon as possible if:

- it changes its name or the name of its public fund; or
- there is any change to the membership of the management committee of the Fund; or
- there has been any departure from the model rules for public funds set out in the Guidelines to the Register of Environmental Organisations.

2.2 Winding-up

In case of the winding-up of the Fund, any surplus assets are to be transferred to another fund with similar objectives that is on the Register of Environmental Organisations.

2.3 Declaration of Trust

Any donations to the Fund are to be held by the Trustee in accordance with the provisions of this Deed and subject to the control of the Committee of Management of the Fund.

2.4 Objects of the Fund

The object of the Fund is to support the environmental objects/purposes of the Trust.

2.5 Rules of the Fund

- a) The objective of the Fund is to support the Trust's environmental purposes.
- b) Members of the public are to be invited to make gifts of money or property to the Fund for the environmental purposes of the Trust.
- c) Money from interest on donations, income derived from donated property, and money from the realisation of such property is to be deposited into the Fund.
- d) A separate bank account is to be opened to deposit money donated to the Fund, including interest accruing thereon, and gifts to it are to be kept separate from other funds of the organisation.
- e) Receipts are to be issued in the name of the Fund and proper accounting records and procedures are to be kept and used for the Fund.

- f) The Fund will be operated on a not-for-profit basis.
- g) The Fund will be administered by the Trustee at the direction of the Committee of Management.

2.6 The Management Committee

- (a) The Management Committee for the Fund shall be made up of no less than three (3) persons.
- (b) A majority of the members of the Management Committee must be persons who, because of their tenure of some public office or their position in the community, have a degree of responsibility to the community as a whole as distinct from obligations solely in regard to the environmental objectives of the Trust.
- (c) Any changes to the membership of the Management Committee are to be advised by the Trustee to the Department within a reasonable time following the making of the changes.
- (e) The procedures for conduct of meetings of the Management Committee shall be the same as those that govern meetings of the Trustee.
- (f) The Management Committee shall give such directions to the Trustee as are necessary to properly administer the Fund.

2.7 Accounts

The Trustee must keep or cause to be kept accounts in accordance with generally accepted accounting principles of all receipts, payments, assets and liabilities relating to the Trust and Fund and of all other matters necessary for showing a true state of affairs and condition of the Trust and Fund.

2.8 Annual Accounts

The Trustee must as soon as practicable after the last day of each Year prepare or cause to be prepared a statement of income and expenditure in respect of that Year and a balance sheet disclosing the assets and liabilities of the Trust and Fund as at the last day of the year (together called "the Accounts").

2.9 Audit

The Trustee must have the Accounts of the Trust and Fund audited within 12 weeks after the end of each Year by the Auditor.

2.10 Auditor

The Trustee must appoint an Auditor. The Auditor:

- (a) must be approved by the Management Committee;
- (b) must be a registered company auditor carrying on practice in Victoria; and

- (c) must not be a Trustee or a member of the Management Committee or be closely related to a trustee or a member of the Management Committee.

2.11 Auditor's Report

The Auditor must report in writing to the Trustee and provide a copy to the Management Committee as to whether:

- (a) the accounts have been properly drawn up so as to give a true and fair view of the income and expenditure of the Fund for the Year and the state of affairs of the Fund as at the end of the Year;
- (b) proper provision has been made in the accounts of the Fund for bad and doubtful debts;
- (c) the accounting records have in the opinion, of the Auditor, been properly kept;
- (d) the Auditor has obtained all information and explanations regarding the Fund required to conduct the audit in a complete and thorough manner; and
- (e) there are any defects or irregularities in the accounts.

The Auditor must give the reasons for any adverse comments made in the Audit by the Auditor.

2.12 Auditor's Term of Office

The Auditor will continue in office until he or she resigns or is removed by the Trustee at the request of the Management Committee. The Trustee, with the approval of the Management Committee, must appoint another qualified auditor to act as Auditor in the place of any auditor so removed and such new Auditor must have signified his or her willingness to act as Auditor prior to such appointment.

2.13 Trustee not Entitled to Fees

Subject to this Deed the Trustee is not entitled to any fee or remuneration in respect of the performance of its office as Trustee of the Fund.

2.14 Trustee's Expenses

The Trustee is entitled to be reimbursed out of the Fund in respect of costs and expenses properly incurred by it in the administration of the Fund.

3 LIABILITY OF THE TRUSTEE

3.4 Transfers of Property

The receipt in writing of the Trustee for any money or other real or personal property paid or transferred to the Trustee effectively discharges the person or authority paying or transferring the same and from being concerned to see to the application of such money or property.

3.5 Payments to Proper Officer

In applying the capital or income of the Fund in accordance with this Deed the Trustee may make payment to a person which in the Trustee's opinion is the proper officer for the receipt of such money and is not responsible to see to the application of the money so paid.

3.6 Liability for Loss

The Trustee is not liable for any loss or damage caused in connection with the Fund unless incurred as the result of the misconduct, fraudulence, dishonesty, wilful breach of duty or wilful neglect of the Trustee.

3.7 Obligation to Investigate

Nothing in this Deed imposes any obligation upon the Trustee to investigate the accounts or management control of any person in which any of the assets forming part of the Fund may be invested nor is the Trustee under any obligation to bring any action, suit or proceedings or in any other manner to seek to interfere with the constitution, management or control of any such entity.

4 GENERAL POWERS OF TRUSTEE

The Trustee shall have the same powers as set out in the Deed establishing the Trust provided that the Trustee shall not be entitled to exercise any power other than in accordance with the direction of the Management Committee and in accordance with the terms of this Deed.

5 VARIATION OF THIS DEED

5.4 Amendments to Deed

Subject to the following clauses, the Trustee may resolve to vary or modify all or any of the provisions of this Deed.

5.5 Certain Amendments of no Effect

No variation or modification of this Deed is of any force or effect if its effect is:

- (a) to change the objects of the Fund, or
- (b) to change the rules of the Fund unless prior approval has been obtained from the Department of the Environment and Heritage, or
- (c) to disentitle the deductibility under the Tax Act of donations made to the Fund, or
- (d) to confer benefit on the Trustee which is not permitted by this Deed.

5.6 Termination of Trust

The Trustee may terminate the Trust. Upon such termination the Trustee must apply and distribute the surplus capital of the Fund together with all accrued income in accordance with the requirements of the Tax Act and the Guidelines to the Register of Environmental Organisations.

5.7 Governing Law

This Deed is governed by the law in force in the State of Queensland.

6 MINISTERIAL COMPLIANCE

The Trustee must comply with any rules made by the Treasurer and the Minister responsible for the environment to ensure that the gifts to the Fund are used only for it's principal purpose.

8 NOT-FOR-PROFIT

The income and property of the Trust shall be used and applied solely in promotion of its objects and no portion shall be distributed, paid or transferred directly or indirectly by way of dividend, bonus or by way of profit to the trustees or to the members of the management committee.

9 CONDUIT POLICY

Any allocation of funds or property to other persons or organisations will be made in accordance with the established purposes of the Trust and not be influenced by the preference of the donor.

10 STATISTICAL INFORMATION

Statistical information requested by the Department on donations to the Fund will be provided within four months of the end of the financial year.

An audited financial statement for the Trust and the Fund will be supplied with the annual statistical return. The statement will provide information on the expenditure of public fund monies and the management of public fund assets.

EXECUTED as a deed by both parties.

SIGNED SEALED AND DELIVERED by the said Robert George Lunney in the presence of :



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Witness:

SIGNED SEALED AND DELIVERED by

..... in the presence of :

RYAN GINARD

Witness:

.....

SIGNED SEALED AND DELIVERED by

..... in the presence of:

.....

ADAM KAMRADT-SLOTT

Witness:

SIGNED SEALED AND DELIVERED by

..... in the presence of :

.....

Witness:

SIGNED SEALED AND DELIVERED by

..... in the presence of:

..... Marie D. BELL

Witness: