



ANNO PRIMO

GEORGII VI REGIS.

A.D. 1937.

No. 2348.

**An Act to ratify an Agreement in respect of the
Anzac Highway.**

[Assented to 20th October, 1937.]

WHEREAS an Agreement has been made between the Commissioner of Highways of the one part and the Corporation of the City of Unley, the Corporation of the Town of Glenelg and the District Council of West Torrens of the other part :
AND WHEREAS it is provided in the Agreement that it shall have no force or effect until approved adopted authorised or ratified by the Parliament of the State of South Australia :
AND WHEREAS it is expedient that the said Agreement should be ratified by the Parliament of the State of South Australia :
NOW THEREFORE BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. This Act may be cited as the "Anzac Highway Agreement Act, 1937". Short title.
2. The Agreement in respect of the Anzac Highway, a copy of which is set out in the Schedule to this Act, is hereby approved, adopted, authorised and ratified. Ratification of Agreement
3. Every party to the Agreement mentioned in section 2 of this Act may do all things necessary to carry out the obligations of that party under that Agreement. Power to carry out agreement.
4. (1) In the work of planting and maintaining the centre and side plantations provided for in the Agreement mentioned in section 2 of this Act, the Commissioner of Highways shall not employ any person who is not a returned soldier or a returned Employment of returned soldiers and sailors.

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sailor except in a case where in the opinion of the Commissioner and in the opinion of the Anzac Highway Garden Committee no suitable returned soldier or returned sailor is available for the particular work.

(2) In this section "returned soldier or returned sailor" means any person who—

- (a) during the Great War, which commenced on the 4th day of August, 1914, served outside Australia, as a member of any Naval or Military Force of any part of His Majesty's Dominions, or being a member of any such Naval force, served on a ship of war or a mine sweeper ; or
- (b) served in a theatre of war in any other war in which His Majesty was engaged, as a member of any Naval or Military Force of any part of His Majesty's Dominions.

Expense of plantations payable by councils.

5. In accordance with the recitals of the Agreement mentioned in section 2 of this Act, the said Agreement shall be read and construed as if the words "and at the expense" had been inserted after the word "behalf" in the fourth lines of clauses 9 and 11 (a) thereof.

Invalidity of amending agreement unless ratified.

6. No agreement which is made by way of variation of or in substitution for the Agreement mentioned in section 2 of this Act, and which increases the share of the cost of the Anzac Highway payable by the Commissioner of Highways, shall have any force or effect until it has been ratified by the Parliament of South Australia.

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

G. J. R. MURRAY, Lieutenant-Governor.

THE SCHEDULE.

An Agreement made this 14th day of July 1937 between the Commissioner of Highways a body corporate constituted under the Highways Acts, 1926 to 1936 (hereinafter referred to as the "Commissioner") of the one part and the Corporation of the City of Unley, the Corporation of the Town of Glenelg, and the District Council of West Torrens (hereinafter referred to as the "Councils") of the other part: Whereas the Commissioner and the Councils desire to reconstruct the roadway hereinafter described, and whereas the Commissioner has agreed with the Councils to reconstruct the said roadway in accordance with the cross section plan attached hereto by constructing two roadways and two cycle tracks with centre and side plantations, and the Councils have agreed with the Commissioner to pay 22 per cent. of the cost of such construction And whereas the Commissioner has agreed with the Councils to maintain the two roadways and the two cycle tracks in good order and repair when constructed And whereas the Commissioner has agreed with the Councils to construct on behalf of the Councils the pathways adjoining the said roadway and the Councils have agreed with the Commissioner to pay to him the expense incurred in such construction and have further agreed to maintain in good order and repair the said pathways when constructed And whereas the Commissioner has agreed with the Councils to plant and maintain on behalf of the councils the said centre and side plantations in manner recommended from time to time by a joint authority set up by the Commissioner and the Councils and the Councils have agreed with the Commissioner to pay to him the expenses incurred in planting and maintaining the said centre and side plantations. Now therefore it is agreed between the parties hereto as follows:—

1. This agreement shall have no force or effect and shall not be binding on either party unless and until it is approved adopted authorised or ratified by the Parliament of the State of South Australia.

2. The Commissioner subject to and for the purposes of this agreement and in the manner hereinafter prescribed shall reconstruct approximately 4 miles and 33 chains of roadway between Keswick and Glenelg in the State of South Australia being that portion of the public road known as Anzac Highway situate between the point where the roadway known as Nottingham Avenue, Keswick in the said State joins the Anzac Highway at Keswick and the point where the roadway known as Brighton Road, Glenelg in the said State joins the Anzac Highway at Glenelg.

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3. The Commissioner shall reconstruct the roadway referred to in paragraph 2 hereof as follows, namely:—

(a) With two roadways having a light bituminous penetration with a premixed drag surface on a waterbound rubble base, as recommended by the Commissioner to the Parliamentary Standing Committee on Public Works when giving evidence to the Committee upon its investigation and report on the Anzac Highway reconstruction scheme, and

(b) With two cycle tracks,

such roadways, and cycle tracks to conform generally with the cross section plan attached hereto and to provide for the pathways centre and side plantations as set out in the cross section plan attached hereto.

4. When the said roadway has been reconstructed by the Commissioner in accordance with clause 3 of this agreement, the Commissioner at his own cost and expense shall subsequently maintain in good order and repair the two roadways and the two cycle tracks so constructed, and, during the period of 28 years from the date of the certificate referred to in clause 5 hereof, the Commissioner shall not determine pursuant to the Highways Acts, 1926 to 1936, that money shall be contributed by any of the said Councils to the Main Roads Fund towards the keeping in repair and maintenance of the said roadways and cycle tracks but thereafter the Commissioner may do so in accordance with the Statutes then in force.

5. (a) When in the opinion of the Commissioner the said roadway has been reconstructed in accordance with clause 3 of this agreement, the Commissioner shall give his certificate to the Councils that the reconstruction is completed and shall set out in such certificate the total cost thereof and, in accordance with the following provisions, shall set out the proportions of such cost payable by each of the said Councils.

(b) The Commissioner shall apportion the total cost of reconstructing the said roadway set out in the said certificate as follows:—

(i.) 78 per cent. thereof shall be payable by the Commissioner

(ii.) 22 per cent. thereof shall be payable by the said Councils jointly and the respective proportions of such amount payable by each of the said Councils shall be as follows:—

9/20ths of such amount shall be payable by the Corporation of the Town of Glenelg;

9/20ths of such amount shall be payable by the District Council of West Torrens; and
1/10th of such amount shall be payable by the Corporation of the City of Unley.

6. The Commissioner, on behalf of the said Councils, shall form and pave the pathways in the said roadway making them to conform generally with the cross section plan attached thereto.

7. (a) When, in the opinion of the Commissioner the said pathways have been formed and paved in accordance with clause 6 of this agreement, the Commissioner shall give his certificate to the Councils that the said pathways have been formed and paved and shall set out in such certificate the expense incurred in so forming and paving the said pathways, and, in accordance with the following provisions, shall set out the respective proportions of such expense payable by each of the Councils.

(b) The Commissioner shall apportion the expense incurred in forming and paving the said pathways between the Councils, so that the respective proportion of such expense to be paid by each of the Councils respectively shall be according to the ratio that the lineal frontage of such of the said pathways as lie within the municipality or district of each such Council bears to the lineal frontage of the whole of the said pathways in the municipalities and district of all the Councils.

8. If the annual instalments to be paid by any of the Councils under clause 13 of this agreement are paid regularly by any such Council on or before the days on which the same are payable, for the period of twenty-eight such annual instalments, then the amount to be paid by any such Council complying with the said clause shall be deemed to be fully paid and the Commissioner shall release and discharge any such Council from all further liability under the said clause.

9. As soon as practicable after the construction of the centre and side plantations or any portion thereof by the Commissioner in accordance with clause 3 of the agreement, the Commissioner on behalf of the said Councils and upon the recommendation and with the consent of the Anzac Highway Garden Committee hereinafter referred to, shall plant and maintain trees, shrubs, lawns, or gardens in the centre and side plantations or any portion thereof.

10. (a) As soon as is practicable the Commissioner shall appoint an honorary Anzac Highway Garden Committee to be composed of five members being himself as Chairman of the Committee and four other members.

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(b) Three of the members of the Committee may form a quorum and the Committee may act under this agreement notwithstanding any vacancy of the seat of any member of the Committee or any temporary non-appointment of the composite number of members of the Committee.

(c) Three of such members appointed by the Commissioner shall be persons nominated in writing addressed to the Commissioner by the Councils each of which shall have the right to nominate either a member or an officer of its Council as a member to be appointed on the Committee; provided that if no person is so nominated by a Council, the Commissioner may appoint any other person he deems fit.

(d) Each member duly appointed shall hold office for the period of two years from the date when he commenced to hold office under his appointment unless he sooner resigns, is dismissed, or, if a nominee of a Council ceases to be a member of such Council or an officer of such Council or otherwise ceases to be a member; provided that any retiring member may be renominated or be eligible for reappointment.

(e) The Commissioner shall have power in his absolute discretion to dismiss any member of the Anzac Highway Garden Committee and to appoint new members to the Anzac Highway Garden Committee and the Commissioner shall dismiss any nominee of a Council upon a request in writing in that behalf received from the Council.

(f) When any member nominated by any of the Councils ceases to hold office the Commissioner shall before appointing a new member call upon the Council whose nominee has ceased to hold office, to nominate a person under subclause (c) hereof.

11. (a) The Commissioner acting upon the recommendation and with the consent of the Anzac Highway Garden Committee shall have full control of planting and maintaining the centre and side plantations on behalf of the Councils and shall have the power to call upon the said Councils to make advances for the cost of planting and maintaining the centre and side plantations as provided in clause 9 hereof: Provided that the total amount of advances that the Commissioner, acting upon such recommendation as aforesaid, may call upon the said Councils to make shall not exceed the sum of £2,000 per annum except with the consent in writing of the said Councils.

(b) Such advances to be made by the Councils shall be apportioned and the respective proportions of such advances to be paid by each of the said Councils shall be as follows:—

9/20ths of such advances shall be payable by the Corporation of the Town of Glenelg;

9/20ths of such advances shall be payable by the District of West Torrens; and

1/10th of such advances shall be payable by the Corporation of the City of Unley.

(c) All advances received by the Commissioner under this clause shall be paid into either the Treasury or a Savings Bank according to the recommendation of the Committee and placed to the credit of a fund called the "Anzac Highway Garden Fund."

(d) Out of such fund the Commissioner with the consent of the Anzac Highway Garden Committee shall pay all costs of planting and maintaining the centre and side plantations as aforesaid.

(e) For the purpose of planting and maintaining the centre and side plantations as aforesaid the Commissioner with the consent of the Anzac Highway Garden Committee shall have the power to purchase such materials and to enter into such contracts and to employ such services clerical or otherwise as he deems fit.

12. Each of the said Councils hereby agree that the Commissioner, in the performance of the works and undertakings referred to in clauses 2, 3, 4, 6 and 9 of this agreement, may exercise such powers as each said Council would have the power to exercise if it were itself performing the said works and undertakings, and each of the said Councils hereby gives its authority to the Commissioner to exercise such powers on its behalf.

13. (a) Upon the Commissioner giving the certificate referred to in clause 5 of this agreement each of the said Councils shall pay to the Commissioner in the manner hereinafter provided the amount therein set out (calculated under the provisions of subclause (b) of clause 5 of this agreement) as payable by it for its proportion of the total cost of the reconstruction of the said roadway in accordance with clause 3 of this agreement, and each of the said Councils shall pay interest on the respective proportion payable by it from the date of such certificate until repayment at the rate of £4 per centum per annum.

(b) For the purpose of repaying the amount payable by it under subclause (a) hereof, each of the said Councils shall pay equal annual instalments to the Commissioner, the first of such instalments to be paid within one year from the date of the certificate referred to in clause 5 of this agreement, and each succeeding instalment to be paid within every succeeding year respectively until the amount is fully paid or the liability to pay is released and discharged by the Commis-

sioner as hereinbefore provided, such annual instalment to amount to 6 per cent. of the proportion payable by it under subclause (a) hereof.

14. (a) Each of the said Councils shall cause such pathways in the said roadway as lie within its municipality or district to be formed and paved so as to conform generally with the pathways marked in the cross section plan attached hereto.

(b) Each of the said Councils, without prejudice to any claim or right it may have to recover a moiety of the expense incurred in causing the work referred to in subclause (a) hereof to be carried out from the owners of the property abutting on the said pathways, hereby agrees that the Commissioner shall form and pave the said pathways on its behalf and hereby engages the Commissioner to form and pave the said pathways in such manner as the Commissioner shall determine.

(c) Upon the Commissioner giving the certificate referred to in clause 7 of this agreement each of the said Councils shall pay to the Commissioner in the manner hereinafter provided the amount therein set out calculated under the provisions of subclause (b) of clause 7 of this agreement as payable by it for its proportion of the expense incurred in forming and paving the pathways in accordance with clause 6 of this agreement, and each of the said Councils shall pay interest on the respective proportion payable by it from the date of such certificate until repayment at the rate of £4 per centum per annum.

(d) For the purpose of repaying the amount payable by it under subclause (c) hereof each of the said Councils shall pay equal annual instalments to the Commissioner the first of such instalments to be paid within one year of the date of the certificate referred to in clause 7 of this agreement, and each succeeding instalment to be paid within every succeeding year respectively until the amount is fully paid, such annual instalment to amount to 6 per cent. of the proportion payable by it under subclause (c) hereof: Provided that each of the said Councils shall have the right at any time to pay any such additional amount or amounts of the amount payable by it under subclause (c) hereof as it may desire to pay.

(e) When the Commissioner has formed and paved the pathways in the said roadway as hereinbefore provided, each of the said Councils at its own cost and expense shall subsequently maintain in good order and repair such of the said pathways as lie within its municipality or district.

15. Notwithstanding anything herein contained if any of the said Councils shall make default in payment of any of the said annual instalments referred to in clauses 13 and 14, hereof on or before the due date, and such default continues for the period of one calendar month, the Commissioner shall have the right to sue for the total sums payable under clauses 13 (a) and 14 (c) by any such Council making default.

16. (a) As soon as practicable after the construction of the centre and side plantations by the Commissioner in accordance with clause 3 of this agreement, each of the said Councils shall cause to be planted and maintained in the said centre and side plantations such trees, shrubs, lawns, or gardens as are recommended from time to time by the Anzac Highway Garden Committee hereinbefore referred to.

(b) Each of the said Councils from time to time as the occasion demands shall nominate in writing addressed to the Commissioner either a member or an officer of its Council as its nominee for appointment as a member of the Anzac Highway Garden Committee.

(c) Each of the said Councils hereby agrees that the Commissioner, upon the recommendation and with the consent of the Anzac Highway Garden Committee appointed by the Commissioner under clause 10 of this agreement shall plant and maintain trees, shrubs, lawns or gardens in the centre and side plantations on its behalf and hereby engages the Commissioner for that purpose.

(d) Each of the said Councils shall pay on demand to the Commissioner the proportion of such advances (calculated under the provisions of subclause (b) of clause 11 of this agreement as payable by it for its proportion of the cost of planting and maintaining the centre and side plantations) as the Commissioner upon the recommendation and with the consent of the Anzac Highway Garden Committee may demand for that purpose under subclause (a) of clause 11 of this agreement.

17. Each of the said Councils shall render such aid and assistance to the Commissioner in the performance of his covenants herein contained as is in its power to render, and for that purpose, while the construction of the pathways and/or the planting and maintenance of the centre and/or side plantations in or adjoining the area of any of the Councils is being performed or desired to be performed by the Commissioner, each such Council shall lend free of charge such plant machinery tools and equipment as it has at its disposal and will provide free of charge such reasonable services as the Commissioner may demand.

18. Each of the said Councils shall keep the Commissioner and/or his servants indemnified against all claims demands

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proceedings damages expenses or costs by or at the instance of any person or body in relation to or in connection with the performance by the Commissioner and/or his servants of the covenants contained in clauses 6 and 9 of this agreement.

19. It is hereby expressly agreed that the terms and conditions of this agreement may be varied rescinded or altered by any further agreement in writing made between the Commissioner and all the Councils that are parties to this agreement.

20. Any dispute or difference arising between any of the parties to this agreement touching any matter or thing herein contained or to be done hereunder shall be referred to arbitration under the terms of "The Arbitration Act, 1891."

In witness whereof the parties hereto have executed these presents the day and year first above written.



The Common Seal of the Commissioner of Highways was hereto affixed in the presence of

D. V. FLEMING.

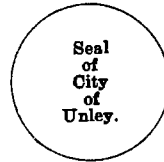
R. A. GIBBINS.



The Seal of the Corporation of the Town of Glenelg was hereto affixed in the presence of

WILLIAM FISK, Mayor.

F. A. LEWIS, Town Clerk.



The Seal of the Corporation of the City of Unley was hereto affixed in the presence of

J. SOUTAR, Mayor.

C. J. G. OSBORN, Town Clerk.



The Seal of the District Council of West Torrens was hereto affixed in the presence of

A. BURT, Chairman.

VERNON S. SHEPHARD,
District Clerk.

I hereby consent to the within-described councils entering into the within contract.

A. P. BLESING, Minister of Local Government.

Dated 14th July, 1937.

ANZAC HIGHWAY
Cross Section Plan.

