Background –

A. Lily Margaret Owen-Smyth (‘donor’) died on 22 June 1970 and under the terms of a Deed of Settlement dated 25 June 1952 (subject to a life interest), settled the sum of £500 to the University of Adelaide (‘bequest’) in the following manner:-

‘.....During the lifetime of the settlor (Lily Margaret Owen-Smyth) the trustee shall pay the income of the trust fund to The University of Adelaide of North Terrace Adelaide. After the death of the settlor the trustee shall hold the trust fund and the future income thereof IN TRUST for such charitable institution or institutions or for such charitable purpose or purposes and in such shares and proportions as the settlor shall by her last will or any codicil thereto appoint AND in default of and subject to any such appointment IN TRUST for the said The University of Adelaide.

.....All moneys whether capital or income paid to the said University pursuant to the provisions of these presents shall be applied by the said University for the purposes of the Waite Agricultural Research Institute at Urrbrae but the trustee shall not be under any obligation to see to the application of such moneys.......’

B. Lily Margaret Owen-Smyth did not exercise her power of appointment at the time of her death and accordingly the default provisions of the Deed of Settlement prevailed.

C. The University accepted the bequest upon the trusts specified by the donor and the bequest therefore became the capital subject to those trusts (‘capital sum’).

Investment of the fund

1. The fund is to be amalgamated for the purposes of investment, and held in a common fund, and the net income earned by the common fund shall be credited, rateably, to the funds so amalgamated and thereafter distributed according to the bequest of the donor.

Obligations

2. In administering the fund, the University must adhere to the terms specified and is obliged:-

   (a) to invest the capital sum according to the directions of the donor; and

   (b) to establish a fund to be administered according to the wishes of the donor.

Administration

3. Funds are currently being applied towards agricultural research in the Waite General Bequest Fund.