

Manly Leasing and Variation of Trusts Ordinance 2006

(Reprinted under the Interpretation Ordinance 1985.)

The Manly Leasing and Variation of Trusts Ordinance 2006 as amended by the Manly Leasing and Variation of Trusts Ordinance 2006 Amendment Ordinance 2010 and the Manly Leasing and Variation of Trusts Ordinance 2006 Amendment Ordinance 2011.

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Long Title

An Ordinance to authorise the leasing of certain land at Manly, to provide for the application of the rental proceeds and for purposes incidental hereto.

Preamble

A. Anglican Church Property Trust Diocese of Sydney (the "Property Trust") is the registered proprietor of the whole of the land contained in Certificate of Title Folio Identifier Y/162102 known as the site of commercial offices and retail shops on The Corso in Manly (the "Land").

B. The Land is church trust property. The preamble to the St Matthews Manly Ordinance 1941 recites that the Land is held upon trust as a site and for the purposes of a church of the Church of England and a parsonage and school house in connection therewith.

C. By reason of circumstances which have arisen after the creation of the trusts on which the Land is held it is inexpedient to carry out or observe those trusts or to deal with or apply the Land for the same or like purposes as those trusts or wholly for the purposes of the parish of Manly (the "Parish") and it is expedient that those trusts be varied and that the Land be leased and the proceeds thereof be applied in the manner set out in this Ordinance.

The Standing Committee of the Synod of the Diocese of Sydney Ordains as follows.

1. Name

This Ordinance is the Manly Leasing and Variation of Trusts Ordinance 2006.

2. Declarations

By reason of circumstances which have arisen after the creation of the trusts on which the Land is held –

- (a) it is inexpedient to carry out or observe those trusts or to deal with or apply the Land for the same or like purposes as those trusts or wholly for the purposes of the Parish, and
- (b) it is expedient that those trusts be varied in the manner set out in clause 3 and that the Land be leased and the proceeds thereof be applied in the manner set out in clause 5.

3. Variation of Trusts

- (1) Subject to subclause (2), the Land is held on trust for the purposes of the Parish.
- (2) The trusts of the Land are further varied to permit the application under clause 5(1)(b)(i) of the Ordinance.

Repealed by Ordinance No 55, 2013

4. Authority to Lease

- (1) The Property Trust is authorised to lease from time to time the whole or any part of the Land for a term not exceeding 20 years (including any options to renew).
- (2) The authority to lease in subclause (1) includes leases commencing on and from 31 October 2002.

5. Application of Proceeds from Lease

- (1) The income from any lease granted under clause 4 shall be applied as follows –
- (a) in and towards payment of all rates, taxes, repairs and maintenance expenses, commissions and other outgoings charged, or to be charged, against the Land or any building erected upon the Land, insofar as the same are not recoverable from any tenant under the leases, and
 - (b) payments not exceeding the amounts per year set out in the Schedule or such greater amounts per year as may be specified by the Standing Committee by resolution are to be made to the fund known as the “Shop Equity Fund” for the purpose of meeting the present or future costs of and incidental to refurbishment of existing buildings or construction of new buildings or structures in replacement of, the shops and offices on the Land or any building erected upon the Land, including the payment of the interest and principal on any loan or loans taken out for this purpose, and
 - (c) the balance to be applied as follows –
 - (i) 47.5% is to be paid to the Synod of the Diocese of Sydney, or the Standing Committee thereof, for such purpose or purposes as the Synod may determine through ordinances promoted under clause 3 of the Synod Estimates Ordinance 1998, and
 - (ii) 47.5% is to be paid to the Churchwardens of St Matthews Manly (the Churchwardens) to be applied for such purposes of the Parish as the parish council may from time to time determine, except the payment of the stipends, allowances and benefits paid or provided to the minister, and
 - (iii) 5% is to be paid to the Churchwardens to be applied towards the payment of the costs and expenses of or incidental to –
 - (A) the alteration, extension, addition, demolition and/or redevelopment of buildings and structures erected on land held on trust for the general or specific purposes of the Parish, and
 - (B) the construction of new buildings or structures whether inside or adjacent to, or in replacement of, the shops, offices, halls, function room, church and other spaces on the Land, and
 - (C) the provisions of fixtures and fittings in, or adjacent to, or incidental to, such alteration, extension, addition, redevelopment or construction.
- (2) Pending application under clause 5(1) the net income is to be invested and the income capitalised.
- (3) On or before 30 September 2015 the Churchwardens must present an ordinance to the Standing Committee to provide for the application of the income arising from the leasing of the Land for the period from and including 1 January 2016 having regard to the needs of the Parish and the Diocese of Sydney.

6. Repeal

The St Matthew’s Manly Ordinance 1941 and the Manly Lease Distribution Ordinance 2002 are repealed without affecting the validity of any action undertaken in pursuance of the provisions of those ordinances.

Schedule

Year	Amount expressed as a percentage of the gross rental from the Land
2011	25%
2012	35%

Repealed by Ordinance No 55, 2013

Year	Amount expressed as a percentage of the gross rental from the Land
2013	50%
2014	100%
2015	100%

Notes

The original form of ordinance was assented to on 2 May 2006.

Table of Amendments

Clause 5 Amended by Ordinances Nos 36, 2010 and 12, 2011.
Schedule Inserted by Ordinance No 36, 2010.

STEVE LUCAS
Manager, Legal Services

2 June 2011

ROBERT WICKS
Diocesan Secretary

Repealed

Repealed by Ordinance No 55, 2013