Gymea Trust Ordinance 2001

No 29, 2001

Long Title

An Ordinance to vary the trusts on which certain property is held and to establish the Gymea Trust.

Preamble

A. Anglican Church Property Trust Diocese of Sydney (the "Property Trust") is the trustee of the property described in each of the cells in column 1 of the table in the Schedule (the "Existing Property").

B. The property described in a cell in column 1 of the table in the Schedule is held on the trusts described in the corresponding cell in column 2 of the Schedule.

C. By reason of circumstances which have arisen after the creation of the trusts on which the Existing Property is held, it is inexpedient to carry out and observe those trusts.

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

1. Name of this ordinance

This Ordinance is the Gymea Trust Ordinance 2001.

2. Declarations

By reason of circumstances which have arisen after the creation of the trusts on which the Existing Property is held, it is inexpedient to carry out and observe those trusts, and

(a) it is inexpedient that the Existing Property be held for the same or like purposes as the trusts on which the Existing Property is held; and

(b) it is expedient that power be given to the Property Trust to lease or licence from time to time any part of the real property forming part of the trust fund.

3. Definition of "trust fund"

In this Ordinance -

"trust fund" means -

(a) the Existing Property; and

(b) all real and personal property received or acquired by the Property Trust from time to time as an addition to the trust fund.

4. Name of the trust fund

The trust fund is to be known as the Gymea Trust.

5. New trusts

Subject to the terms of this Ordinance, the trust fund is held upon trust for the purposes of the parish of Gymea (the "Parish").

6. Capital of the trust fund

(1) Any real property which forms part of the capital of the trust fund, may be used for one or more of the following purposes -

(a) a church;

(b) a residence for the minister, an assistant minister or any person employed by the churchwardens of a church in the Parish;

(c) a hall or halls;

(d) a school or other place of assembly;

(e) any purpose incidental to a purpose referred to in paragraph (a), (b), (c) or (d).

(2) Any personal property which forms part of the capital of the trust fund may be applied by the Property Trust for one or more of the following purposes -

(a) the payment of all rates, taxes and charges incurred by the Property Trust in relation to the trust fund, any property forming part of the trust fund or any transaction with property forming part of the trust fund; and

(b) the costs of maintenance and repair of any property forming part of the trust fund required to meet minimum standards of maintenance and repair prescribed by legislation and applying to that property;

(c) for such purposes as the Standing Committee may direct by ordinance or resolution.

(3) Pending application under clause 6(2), any personal property which forms part of the capital of the trust fund is to be invested.

(4) If the churchwardens of a church in the Parish make a payment to the Property Trust as an addition to the trust fund for the purpose of enabling the Property Trust to make a payment under any contract made or to be made by the Property Trust as trustee of the trust fund and -

(a) the full amount of the payment made by the churchwardens is not required by the Property Trust for that purpose, the Property Trust may pay to the churchwardens an amount equal to the excess; or

(b) the Property Trust claims an input tax credit (as defined in the *New Tax System (Goods and Services) Act 1999*) in respect of the payment made under the contract, the Property Trust may pay to the churchwardens an amount equal to the amount of the input tax credit (or proportionate part thereof where the payment made by the churchwardens is less than the payment made by the Property Trust).

7. Application of the income of the trust fund

(1) The income of the trust fund (other than income referred to in clause 7(2)), after paying all rates, taxes and charges incurred by the Property Trust in relation to the trust fund, any property forming part of the trust fund or any transaction with property forming part of the trust fund, is to be applied as follows -

(a) 30% is to be capitalised, and

(b) the balance is to be paid to the churchwardens of the church of the Parish or, if there is more than one church, the churchwardens of the principal church of the Parish, 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.

(2) The income of the trust fund arising from a residential lease granted pursuant to clause 9(1) for a weekly rental which does not exceed $750 or such other amount as the Standing Committee determines by resolution is to be applied in accordance with clause 7(1)(b).

8. Review

(1) The authority to apply income under clause 7(1)(b) earned after the review date terminates on the review date.

(2) For the purposes of subclause (1) "review date" means the date which is 10 years after the date this Ordinance commences or such later date as the Standing Committee approves from time to time by resolution.

9. Powers - leasing and licensing of real property

(1) With the written consent of the parish council of the Parish, the Property Trust may lease or licence any part of the real property forming part of the trust fund, except any part which is consecrated or licensed for use as a church, if the term of the lease or licence (when aggregated with the term of any option to renew such lease or licence) does not exceed 5 years.

(2) Nothing in this clause limits the powers of the Property Trust under the Anglican Church Property Trust Ordinance 1965 or under any other ordinance.

10. Commencement

This Ordinance commences on the date of assent to this Ordinance.

Schedule

Column 1	Column 2
Anglican Church Property Trust Diocese of Sydney Client Fund 559	By clause 5 of the Gymea (Grays Point) Land Sale Ordinance 1996, the proceeds arising from the sale of Lots 42, 431, 432 and 44 (being subdivisions of land at Grays Point formerly comprised in Certificates of Title Folio Identifiers A/22847, B/22847 and 51/776745), after paying or reimbursing the Parish for the costs of and incidental to the ordinance, the costs of and incidental to any necessary acquisition, subdivision and creation of any easements and the costs of and incidental to the sale or sales, shall be applied by the Property Trust towards one or more of - (a) the repayment or reduction of any existing debt; and (b) such other purposes, whether within or outside the parish of Gymea, as Standing Committee may resolve following a request from the majority of the parish council of the parish of Gymea. Pending such application, the Property Trust shall invest the proceeds and capitalise the income.
Folio Identifier 22/521300 known as 3 Bonnie View Street, Gymea	The land is held upon trust for the parish of Gymea although there are no written trusts.

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Column 1	Column 2
Folio Identifier 20/521300 known as St Paul's Church, Hall and Rectory, Gymea Bay Road, Gymea.	By clause 1 of the St Paul's Gymea Declaration of Trusts and Mortgage Ordinance 1973, the land is held upon trust to permit the same to be used for a church, parsonage or parish hall or party for one and partly for another or others of such purposes in connection with the Church of England in Australia in Gymea in the Parish of St. Paul Gymea or any other provisional parish or provisional district into which it may subsequently be formed.
Folio Identifier 9/9303 known as 133 Gymea Bay Road, Gymea	The land is held on trust for the parish of Gymea although there are no written trusts.

I Certify that the Ordinance as printed is in accordance with the Ordinance as reported.

N M CAMERON
Chairman of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 13 August 2001.

M A PAYNE
Secretary

I Assent to this Ordinance.

PETER F JENSEN
Archbishop of Sydney
15/8/2001