

Dural District Trust Ordinance 2015

No 16, 2015

Long Title

An Ordinance to vary the trusts on which certain property is held and to establish the ACPT – Dural District Trust.

Preamble

A. Anglican Church Property Trust Diocese of Sydney (the “ACPT”) 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 or to apply the income of the trusts wholly for the purposes of the parish of Dural District (the “Parish”).

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

1. Name of ordinance

This Ordinance is the Dural District Trust Ordinance 2015.

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 for the income of the trust to be applied wholly for the purposes of the Parish, and
- (b) it is expedient that power be given to the ACPT to lease or license 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 ACPT 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 ACPT – Dural District Trust.

5. New trusts

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

(2) The trusts are further varied to the extent necessary to permit the application in clause 7(3).

6. Capital of the trust fund

(1) Any real property which forms part 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 wardens 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).

Dural District Trust Ordinance 2015

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

- (a) the payment of all rates, taxes and charges incurred by the ACPT 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 Act, Regulation, Order or other law and applying to that property, and
- (c) to the extent such personal property arises from a payment made to the ACPT by the wardens of a church in the Parish for the purpose of enabling the ACPT to make a payment under any contract made or to be made by the ACPT as trustee of the trust fund with the approval of a majority of the parish council, for that purpose, and
- (d) 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 wardens of a church in the Parish make a payment to the ACPT as an addition to the trust fund for the purpose of enabling the ACPT to make a payment under any contract made or to be made by the ACPT as trustee of the trust fund and –

- (a) the full amount of the payment made by the wardens is not required by the ACPT for that purpose, the ACPT may pay to the wardens an amount equal to the excess, or
- (b) the ACPT 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 ACPT may pay to the wardens an amount equal to the amount of the input tax credit (or proportionate part thereof where the payment made by the wardens is less than the payment made by the ACPT).

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 ACPT 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) if, from time to time, the personal property of the trust fund –
 - (i) is predominantly invested in the ACPT's Long Term Pooling Fund – no portion is to be capitalised, or
 - (ii) is not predominantly invested in the ACPT's Long Term Pooling Fund – 30% is to be capitalised, and
- (b) the balance is to be paid to the wardens of the church of the Parish or, if there is more than one church, the wardens 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 lease or licence granted pursuant to clause 9(1) is to be applied in accordance with clause 7(1)(b).

(3) The income of the trust fund arising from a lease granted pursuant to clause 9(2) is to be applied as follows –

- (a) 10% to the Mission Property Fund for the purposes of and incidental to purchasing land or constructing buildings in new housing areas, and
- (b) the balance 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.

Dural District Trust Ordinance 2015

(3) Any review of the application of income under clause 7(1)(b) must take into account the repair and maintenance of the building or other improvement situated on any real property which forms part of the trust fund in order to comply with the Heritage Act 1977.

9. Powers – leasing and licensing of real property

(1) With the written consent of the parish council of the Parish, the ACPT may lease or license 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 –

- (a) 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, and
- (b) the rental payable by the lessee or licensee is not more than \$50,000 per annum (including GST), or such other amount as may be determined by the Standing Committee by resolution from time to time.

(2) Notwithstanding clause 9(1), with the written consent of the parish council of the Parish, the ACPT may also lease the land in folio identifier 3/589402 known as 965 Old Northern Rd Dural, for the purposes of a child care centre and purposes associated thereto, for a term of up to 20 years (including options), without limitation as to the rental amount, and may grant rights of access in connection with the lease.

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

10. Commencement

This Ordinance commences on the date of assent.

Schedule

Column 1	Column 2
The land in folio identifier 1/598637 known as 138 Arcadia Road Dural and the site of St Columb's church and hall.	By Registered Deed Book 826 No 9, this land is held on trust "for the erection thereon of a church, school, parish hall, rectory or other building in connection with the Church of England in the present parish of Castle Hill with Rouse Hill and Dural in the Diocese of Sydney or in such other parish in the Diocese as may be hereafter formed and shall include the said land."
The land in folio identifiers 1/589402, 2/589402 and 3/589402 known as 965 Old Northern Road Dural and the site of a St Jude's Church, hall and rectory.	By Deed dated 22 August 1865 registered Book 95 No 220 this land is held upon trust for the maintenance thereon of the Church known as St Jude's Church for the celebration of public worship according to the usage of the United Church of England and Ireland and upon the trusts and subject to the provisions of An Act of the Governor and Legislative Council of New South Wales passed in the Eighth year of the reign of His Majesty King William the Fourth Number Five intituled An Act to Regulate the Temporal Affairs of Churches and Chapels of the United Church of England and Ireland in New South Wales.

Dural District Trust Ordinance 2015

Column 1	Column 2
The land in folio identifiers 21/1104018 and 22/1104018 known as 512 Galston Road Dural and the site of vacant land.	By clause 3 of the Mission Property (Dural District) Variation of Trusts and Land Sale Ordinance 2007 the land is held on trust for the purposes of the parish of Dural District.
The land in folio identifier 23/1104018 known as 5 St Jude's Terrace, Dural and the site of a residence.	By clause 3 of the Mission Property (Dural District) Variation of Trusts and Land Sale Ordinance 2007 the land is held on trust for the purposes of the parish of Dural District.
The land in folio identifier 1/565603 known as 26 Pitt Town Road, Kenthurst and the site of Christ Church Kenthurst and hall.	The land is held upon trust for the parish of Dural District although there are no written trusts.
The land in folio identifier 6/528817 known as 28 Pitt Town Road, Kenthurst and the site of a residence.	The land is held upon trust for the parish of Dural District although there are no written trusts.
The land in folio identifier 1/616947 known as 883 Old Northern Road Dural and the site of a cemetery.	By Deed dated 10 August 1876, being registered Book 161 No 889, that part of the land situated in the parish of South Colah is held upon trust to be appropriated and used as a burial ground for the use of the members of the Church of England at Dural in the Parish of South Colah and County of Cumberland subject nevertheless to the provisions of the Act of the Governor and Council made and passed in the Eighth of the reign of His Late Majesty King William the Fourth intituled An Act for regulating the temporal affairs of the Churches and Chapels of the United Church of England and Ireland in New South Wales and for no other purpose whatsoever. The balance of the land is held upon similar trusts although there is no evidence in writing.
ACPT Client Fund 0511	The fund is held on the trusts set out in the Dural (Glenorie) Land Sale Ordinance 2000.
ACPT Client Fund 0513	The fund is held on trust for the parish of Dural District although there are no written trusts.

Dural District Trust Ordinance 2015

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

R TONG
Chair of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 27 July 2015.

R WICKS
Secretary

I Assent to this Ordinance.

GN DAVIES
Archbishop of Sydney
28/07/2015