

Randwick Trust Ordinance 2004

(Reprinted under the Interpretation Ordinance 1985.)

The Randwick Trust Ordinance 2004 as amended by the Variation of Trusts Ordinance 2004, the Randwick Ordinance 2005, the Parish Trust Fund (Income Capitalisation) Amendment Ordinance 2008 and the Randwick Trust Ordinance 2004 Amendment Ordinance 2014.

Table of Provisions

Clause	
1	Name of the ordinance
2	Declarations
3	Definition of “trust fund”
4	Name of the trust fund
5	New trusts
6	Capital of the trust fund
7	Application of the income of the trust fund
8	Review
9	Powers – leasing and licensing of real property
10	Amendment
11	Commencement
Schedule	

+ + + + +

Long Title

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

D. It is also expedient to amend the Randwick Leasing Ordinance 2000 and the Randwick Variation of Trusts Ordinance 1999.

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

1. Name of this ordinance

This Ordinance is the Randwick Trust Ordinance 2004.

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; and
- (c) it is expedient that specific power be given to the Property Trust to lease or licence from time to time improvements constructed on real property forming part of the trust fund comprised in folio identifier 1/840568.

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 Randwick 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 Randwick (the "Parish").

6. Capital of the trust fund

(1) Any real property which forms part of the capital of the trust fund (other than the land referred to in clause 6(1A)), 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);
- (f) any purpose (that is not prohibited by law or the trusts on which the real property is held) under a lease or licence entered into under clause 9 or under the Randwick Leasing Ordinance 2000 or under the Randwick Ordinance 2005 or as otherwise permitted by the Property Trust whether at a commercial, or nominal, rental or licence fee.

(1A) The land comprised in folio identifier 1/840568 (except that part upon which is constructed the improvements referred to in clause 3(1) of the Randwick Variation of Trusts Ordinance 1999) is to be used for the purposes of a cemetery.

(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 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 Property Trust by the churchwardens of a church in the Parish 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 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 with the consent of the parish council.

(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) if, from time to time, the personal property of the trust fund –
 - (i) is predominantly invested in the Property Trust's Long Term Pooling Fund – no portion is to be capitalised, or
 - (ii) is not predominantly invested in the Property Trust's Long Term Pooling Fund – 30% is to be capitalised, and
- (b) 15% is to be paid to the South Sydney Regional Council for the purposes of that Council, and
- (c) 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) or pursuant to clause 3(1) of the Randwick Leasing Ordinance 2000 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)(c).

8. Review

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

(2) For the purposes of subclause (1) "review date" means the date which is 15 years after the date this Ordinance commences or such later date as the Standing Committee approves from time to time by resolution.

(3) Any review of the application of income under clause 7(1)(c) must take into account the repair and maintenance of the building or other improvement situated on any real property which forms part of the capital 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 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. Amendment

(1) The Randwick Leasing Ordinance 2000 is amended as follows –

- (a) delete all the matter in recital A from and including the words "land comprised in Certificate" and insert instead –

"that part of the site of St Jude's, Randwick with a frontage to The Avenue (the 'Land')."; and
- (b) delete each occurrence of the matter "(and/or any other trustee of the Land as applicable)" and "(and/or any other trustee as applicable)" in clause 3; and
- (c) delete the matter "Land (excluding the church building)" in clause 3(1) and insert instead –

"improvements constructed on the Land referred to in clause 3(1) of the Randwick Variation of Trusts Ordinance 1999"; and
- (d) delete clause 3(4); and
- (e) delete the words "and shall then be distributed to the churchwardens of St Jude's Randwick for application by the parish council of the Parish for the purposes of the Parish" in clause 4(1) and insert instead –

“and treated as income of the Randwick Trust established under the Randwick Trust Ordinance 2004”.

- (2) The Randwick Variation of Trusts Ordinance 1999 is amended as follows –
- (a) delete all the words in recital C from and including “land comprised in Certificate” and insert instead –
- “that part of the site of St Jude’s, Randwick with a frontage to The Avenue (the ‘St Jude’s Randwick Site’).”; and
- (b) delete clause 3(3).

11. 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 685	By clause 3 of the Randwick Sale Ordinance 1990, the net proceeds arising from the sale or sales shall be invested. 30% of the income earned shall be capitalized and the balance of the income shall be applied by the churchwardens towards the restoration and maintenance of the parish buildings which have been listed by the Heritage Council of New South Wales.
Anglican Church Property Trust Diocese of Sydney Client Fund 686	By clause 6(iv) of the St Jude’s Randwick Ordinance 1970, the remaining proceeds arising from the sale shall be invested and the income there from applied as to one third to be capitalized and as to two thirds to be paid to the churchwardens of St Jude’s Church Randwick to be applied by them in or towards the payment of the stipend of any curate or curates of the parish of St Jude’s or for such other purpose or purposes as the Standing Committee may from time to time by resolution approve.
Auto Consol 1191-71 known as St Jude’s Church hall and Parish centre, situated at 100 Avoca Street, Randwick.	The Randwick Lease Ordinance 1984 recites that the land is held upon trust for the erection of a School House in connection with the United Church of England and Ireland by Law established.
Folio identifier 1/840568 being a cemetery situated at the corner of Frances Street and The Avenue, Randwick.	By the St Jude’s Randwick Variation of Trusts Land Sale and Amendment Ordinance 1973 it was recited that the property is held on trust for the sole benefit of the parish of St Jude of Randwick for the interment of the dead.

Notes

The original form of ordinance was assented to on 2 June 2004.

Table of Amendments

Clause 6	Amended by Ordinances Nos 24, 2004 and 12, 2005.
Clause 7	Amended by Ordinances Nos 12, 2005 and 18, 2008.
Clause 8	Amended by Ordinances Nos 12, 2005 and 41, 2014.
Clause 10	Amended by Ordinance No 24, 2004.
Schedule	Amended by Ordinance No 24, 2004.

STEVE LUCAS
Legal Counsel

17 November 2014

MARTIN THEARLE
Manager, Diocesan Finance