

Surry Hills Trust Ordinance 2002

(Reprinted under the Interpretation Ordinance 1985.)

The Surry Hills Trust Ordinance 2002 as amended by the Surry Hills Trust Ordinance 2002 Amendment Ordinance 2008 and the Surry Hills Trust Ordinance 2002 Amendment Ordinance 2012.

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Long Title

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

Preamble

Whereas

- 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

This Ordinance is the Surry Hills Trust Ordinance 2002.

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 Surry Hills Trust.

5. New trusts

Subject to the terms of this Ordinance, the trust fund is held upon trust for the purposes of the provisional parish of Surry Hills (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 (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 as otherwise permitted by the Property Trust whether at a commercial, or nominal, rent or licence fee;
 - (f) any purpose incidental to a purpose referred to in paragraph (a), (b), (c), (d) or (e).
- (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;
 - (c) for such purposes as the Standing Committee may, upon the written request of a majority of the parish council of the Parish, 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) 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) 10% is to be paid to the South Sydney Regional Council for the purposes of that Council, and
- (c) 5% is to be paid into the Sydney Diocesan Synod Fund for the purposes of the Synod, and
- (d) 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.

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

8. Review

(1) The authority to apply income under clause 7(1)(d) 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)(d) must take into account the repair and maintenance of any building or other improvement situated on land 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. Commencement

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

Schedule

Column 1	Column 2
Folio Identifier 222/584637 known as 19 Arthur Street, Surry Hills	By clause 5 of the St Michael's Sydney Ordinance 1994, the land is held upon trust for the purposes of the Anglican Church Diocese of Sydney in the parish of St Michael's Sydney.
Folio Identifier 2/252228 known as 14 Arthur Street, Surry Hills	By clause 5 of the St Michael's Sydney Ordinance 1994, the land is held upon trust for the purposes of the Anglican Church Diocese of Sydney in the parish of St Michael's Sydney.
Folio Identifier 3/252228 known as 16 Arthur Street, Surry Hills	By clause 5 of the St Michael's Sydney Ordinance 1994, the land is held upon trust for the purposes of the Anglican Church Diocese of Sydney in the parish of St Michael's Sydney.

Column 1	Column 2
Folio Identifier B/401545 known as 22 Marcel Avenue, Randwick	By clause 4 of the Surry Hills Variation of Trusts Ordinance 1997, the land is held upon trust for the purposes of the Anglican Church of Australia within the Diocese of Sydney for the sole benefit of the parish of Flinders Street (Sydney) or any parish or ecclesiastical district into which it may be subsequently formed or of which it may subsequently form a part.
Folio Identifiers 1/584238 & 2/958298 known as the site of St Michael's church, hall and rectory, situated at the corner of Flinders Street and Albion Street, Surry Hills	By clause 9 of the Surry Hills Variation of Trusts Ordinance 1997, the land is held upon trust for – (a) a church; (b) a residence for a minister, assistant to minister or person employed by the churchwardens of St Michael's Church, Flinders Street Sydney; (c) a hall or halls; or (d) a school or other place of assembly, or partly for one and partly for another or others of those purposes or for any other purposes as determined from time to time by the parish council of the parish of St Michael's Surry Hills in connection with the Anglican Church of Australia within the Diocese of Sydney for the sole benefit of the parish or any parish or ecclesiastical district into which it may be subsequently formed or of which it may subsequently form a part.
Anglican Church Property Trust Diocese of Sydney Client Fund 736	Pursuant to the St Michael's Sydney Ordinance 1994, the funds held under that ordinance are held upon trust for the purposes of the Anglican Church Diocese of Sydney in the parish of St Michael's Sydney and without derogating from the generality of such purposes, the Standing Committee may, upon the written request of a majority of the parish council of the parish, specify, by resolution, particular purposes upon which the funds are to be held and applied. Pending the application of the funds the income earned on the funds during the period from 22 February 1997 until 31 December 2001 shall be applied as follows – (a) 20% is to be capitalised; (b) 10% is to be paid to the South Sydney Regional Council for the charitable purposes of that Council; (c) 5% is to be paid to the trustee of the property held on the trusts set out in the Diocesan Endowment Ordinance 1984 to be added to the capital of that property; and

Column 1	Column 2
	<p>(d) the balance is to be paid to the churchwardens of St Michael's Church Sydney to be applied by them for such purposes of the parish as the parish as the parish council may by resolution approve.</p> <p>After 31 December 2001 the income shall be distributed in accordance with a further ordinance which shall be presented by the churchwardens before 1 June 2001.</p>

Notes

The original form of ordinance was assented to on 21 November 2002.

Table of Amendments

Clause 7 Amended by Ordinance No 40, 2008.

Clause 8 Amended by Ordinances Nos 40, 2008 and 47, 2012.

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15 November 2012