

Berrima cum Moss Vale Trust Ordinance 2014

(Reprinted under the Interpretation Ordinance 1985.)

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Long Title

An Ordinance to vary the trusts on which certain property is held and to establish the ACPT – Berrima cum Moss Vale 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.

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

1. Name of ordinance

This Ordinance is the Berrima cum Moss Vale Trust Ordinance 2014.

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 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 – Berrima cum Moss Vale 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 Berrima cum Moss Vale (the "Parish").

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).

(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, at the request or with the approval of a majority of the parish council, 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).

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.

(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) Nothing in this clause limits the powers of the ACPT under the Anglican Church Property Trust 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 identifiers 101/1004483, 102/1004483, 103/1004483 and 104/1004483 known as Argyle Street, Berrima and the site of Holy Trinity Church and parish hall.	<p>Lot 101: By deed of grant the land is held upon trust for the appropriation thereof as a state for a dwelling house, garden and other appurtenant for the clergyman duly appointed to officiate in the church of the United Church of England and Ireland erected at Berrima.</p> <p>Lot 102: By deed of grant the land is held on trust for the erection thereon of a church in connection with the United Church of England and Ireland.</p> <p>Lot 103: See Deed Book 12 Number 163. The land is held upon trust of the erection thereon of a church or chapel in the performance of divine worship according to the rites of the Church of England as may be established.</p>

Column 1	Column 2
	Lot 104: Although there are no written trusts, the land is held on trust for the purposes of the parish of Berrima cum Moss Vale.
The land in folio identifier 311/999883 known as Berrima Road, Berrima and the site of a cemetery.	Pursuant to deed of grant, the land is held on trust for the interment of the dead according to the use of the Church of the United Church of England and Ireland.
The land in folio identifier 71/628810 known as 5 Browley Street, Moss Vale and the site of a residence.	By Ordinance No.45 of 1980 the land is held on trust for a church, residence for a minister, assistant to the minister or a person employed by the churchwardens, hall or halls, schools or other place of assembly.
The land in folio identifier 1/1125578 known as Church Street Bong Bong and the site of Christ Church and a cemetery.	By deed of conveyance Book 580 No. 398 the land is held upon trust to permit the same to be used for a church and parsonage and cemetery purposes.
The land in folio identifier 1/875157 known as Old Hume Highway Berrima and the site of vacant land.	The land is held on the trusts specified in the Berrima cum Moss Vale Ordinance 2002.
The land in folio identifier Auto Consol 516-192 known as Cnr Waite Street and Browley Street Moss Vale and the site of St John's Church and hall.	The land is held upon trust for the Berrima cum Moss Vale although there are no written trusts.
The land in folio identifier 1/934264 known as Nowra Road Fitzroy Falls and the site of Emmanuel Church.	The land is held on trust for the parish of Berrima cum Moss Vale although there are no written trusts.
The land in folio identifier 1/323846 known as 14 Waite Street Moss Vale and the site of a residence.	The land is held on trust for the parish of Berrima cum Moss Vale although there are no written trusts.
The land in folio identifier 27/751276 known as Wombeyan Caves Road, High Range and the site of St Thomas' Church and cemetery.	The land is held on trust for the parish of Berrima cum Moss Vale although there are no written trusts.
ACPT Client Fund 0442.	The fund is held on trust for the parish of Berrima cum Moss Vale although there are no written trusts.

Notes

1. The original form of ordinance was assented to on 30 April 2014.
2. At its meeting on 28 April 2014 the Standing Committee resolved under clause 6(2)(d) that the personal property forming part of the capital of the trust fund may be applied by the Anglican Church Property Trust Diocese of Sydney as follows –
 - (a) in payment of the ordinance fee,
 - (b) an amount up to \$15,000, in and towards the costs of and incidental to repair and refurbishment of the residence situated at 14 Waite Street, Moss Vale (including the installation of new boundary fences), and
 - (c) an amount of up to \$2,500, towards repair and improvement of St John's Church, Moss Vale.

MARTIN THEARLE
Manager, Diocesan Services

ROBERT WICKS
Diocesan Secretary

1 May 2014