Christ Church St Laurence Trust Ordinance 2016

(Reprinted under the Interpretation Ordinance 1985.)

Table of Provisions

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Long Title

An Ordinance to vary the trusts on which certain property is held and to establish the ACPT – Christ Church St Laurence 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 Christ Church St Laurence Trust Ordinance 2016.

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,

(b) it is inexpedient to deal with or apply the Existing Property wholly for the use or benefit of the parish of Christ Church St Laurence (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 – Christ Church St Laurence Trust.

5. New trusts

(1) Subject to the terms of this Ordinance and clause 5(2), the trust fund is held upon trust for the purposes of the Parish.

(2) The trusts are varied to the extent necessary to permit the distributions in clauses 7(2)(e) and 7(2)(f).

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 may direct by ordinance or resolution, provided that any such purposes directed by resolution must be purposes within the purposes of the Parish in accordance with clause 5.

(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 clauses 9(1) or 9(2) is to be applied in and towards the costs of and incidental to the following –

(a) first, rates, taxes and charges applicable to the real property of the trust,

(b) second, 16% for routine and emergency repair and maintenance of the real property of the trust,

(c) third, 18% for the regular maintenance items specified in the Parish's Long Term Maintenance Plan dated 8 April 2016, or as the Long Term Maintenance Plan may be modified or updated on professional advice,

(d) fourth, 16% to offset the cost to the Parish of leasing any residence to house a senior assistant minister or assistant minister licensed to the Parish,

(e) fifth, 6% to the Expenditure Fund held under the Endowment of the See Expenditure Ordinance 2012,

(f) sixth, 3% to Anglican Community Services, and

(g) the balance is to be applied in accordance with clause 7(1)(b).

8. Review

(1) The authority to apply income under clauses 7(1)(b) and 7(2) 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) Notwithstanding clause 9(1), with the written consent of the parish council of the Parish, the ACPT may also lease –

(a) the land in folio identifier A/87889 known as 505 Pitt Street Sydney for a term of up to 30 years, and

(b) that part of the land in folio identifier B/87889 known as 812B George Street Sydney which comprises a commercial building for a term of up to 10 years,

without limitation as to the rental amount.

(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. Repeal of ordinances

The following ordinances are repealed with effect from the date of commencement of this Ordinance –

(a) Christ Church St. Lawrence Land Leasing Ordinance 1923, and

(b) Christ Church St Laurence Leasing Ordinance 2006.

11. Commencement

This Ordinance commences on 1 January 2017.

Schedule

Column 1	Column 2
The land in folio identifier B/87889 known as 812B George Street Sydney and the site of St Laurence church, rectory and a commercial building.	The land is church trust property and by clause 4 of the Christ Church St Laurence Sydney Church Rectory and Parish Hall Ordinance 1950 the property is held upon trust for the sole benefit of the parish of Christ Church St Laurence as a site for a church, parsonage and parish hall or partly for one and partly for another or others of such purposes.
The land in folio identifier A/87889 known as 505 Pitt Street Sydney and the site of the parish hall, a residence and commercial spaces.	The land is church trust property and by clause 4 of the Christ Church St Laurence Sydney Church Rectory and Parish Hall Ordinance 1950 the property is held upon trust for the sole benefit of the parish of Christ Church St Laurence as a site for a church, parsonage and parish hall or partly for one and partly for another or others of such purposes.
ACPT Client Fund 712	The funds are held on trust for the parish of Christ Church St Laurence although there are no written trusts.
ACPT Client Fund 746	The funds are held on trust for the parish of Christ Church St Laurence although there are no written trusts.
ACPT Client Fund 748	The funds are held on trust for the parish of Christ Church St Laurence although there are no written trusts.
ACPT Client Fund 768	The funds are held on trust for the parish of Christ Church St Laurence although there are no written trusts.

Notes

1. The original form of ordinance was assented to on 15 November 2016.
2. At its meeting on 14 November 2016, the Standing Committee resolved under paragraph (f) of its policy on the letting of church trust property made under clause 2 of the Church Trust Property (Declaration of Certain Purposes and Objects) Ordinance 1979 to approve, in the context of local circumstances, the use on Sunday of that portion of 812B George Street Sydney which comprises a commercial building, for the purposes of a travel agency.

STEVE LUCAS
Legal Counsel & Corporate Secretary

DANIEL GLYNN
Diocesan Secretary

21 February 2018