

Concord and Burwood Trust Ordinance 2003

(Reprinted under the Interpretation Ordinance 1985.)

The Concord and Burwood Trust Ordinance 2003 as amended by the Concord and Burwood Trust Ordinance 2003 Amendment Ordinance 2021.

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Long Title

An Ordinance to vary the trusts on which certain property is held and to establish the ACPT – Concord and Burwood 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 this ordinance

This Ordinance is the Concord and Burwood Trust Ordinance 2003.

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 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 ACPT from time to time as an addition to the trust fund.

4. Name of trust fund

The trust fund is to be known as the ACPT – Concord and Burwood 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 Concord and Burwood (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 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 the ACPT investing the amount, for such purposes as a majority of the parish council may from time to time determine,
- (d) 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
- (e) for such purposes as the Standing Committee may direct by ordinance or resolution provided that any such purposes directed by resolution must be 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 capitalized, or
 - (ii) is not predominantly invested in the ACPT's Long Term Pooling Fund – 30% is to be capitalized, 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 22 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 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 ACPT 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 –

- (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 any limit that is determined by the Standing Committee by resolution from time to time for the purposes of this clause.

(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 1 January which next follows the date of assent to this Ordinance.

Schedule

Column 1	Column 2
Folio Identifiers – (1) 2/538607, and (2) 4/538607 known as the site of St Luke's church and rectory, situated at 17 Burton Street, Concord.	(1) By clause 4 of the St Luke's Concord-Burwood Declaration of Trusts and Mortgaging Ordinance 1983 the land comprised in Folio Identifier 2/538607 is held on trust for a – (a) church; (b) residence for a minister, assistant to the minister or person employed by the churchwardens; (c) hall or halls; (d) school or other place of assembly; or partly for one or another or others of those purposes or any other purpose ancillary thereof in connection with the Anglican Church of Australia within the Diocese of Sydney for the sole benefit of the parish or other ecclesiastical district of St Luke's Concord-Burwood or any parish or ecclesiastical district into which it may subsequently be formed or form a part.

	(2) That part of the land comprised in Folio Identifier 4/538607 is by the Deed of Grant dated 22 June 1859, held upon trust for the erection thereon of a church of the United Church of England and Ireland, as by law established.
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Notes

1. The original form of ordinance was assented to on 26 August 2003.
2. On 29 February 2016 the Manager, Diocesan Finance, in exercise of sub-delegated authority from the Finance Committee, approved under clause 8(2) of the Ordinance an extension of the review date to 1 January 2024.
3. On 21 July 2023 the Diocesan Secretary, in exercise of sub-delegated authority from the Finance Committee, approved under clause 8(2) of the Ordinance an extension of the review date to 1 January 2034.

Table of Amendments

Long Title	Amended by Ordinance No 41, 2021.
Preamble	Amended by Ordinance No 41, 2021.
Clause 2	Amended by Ordinance No 41, 2021.
Clause 3	Amended by Ordinance No 41, 2021.
Clause 4	Amended by Ordinance No 41, 2021.
Clause 6	Amended by Ordinance No 41, 2021.
Clause 7	Amended by Ordinance No 41, 2021.
Clause 8	Amended by Ordinance No 41, 2021.
Clause 9	Amended by Ordinance No 41, 2021.

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8 August 2023