

Concord West with Concord North Trust Ordinance 2002

(Reprinted under the Interpretation Ordinance 1985.)

The Concord West with Concord North Trust Ordinance 2002 as amended by the Parish Trust Fund (Amendment) Ordinance 2004.

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Long Title

An Ordinance to vary the trusts on which certain property is held and to establish the Concord West with Concord North 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.

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

1. Name

This Ordinance is the Concord West with Concord North 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 Concord West with Concord North 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 West with Concord North (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 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 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 a 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.

(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) 30% is to be capitalised, and
- (b) 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) 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)(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 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 38/2/5578 known as 9 Turner Avenue, Concord	The land is held on trust for the parish of Concord West with Concord North although there are no written trusts.
Folio Identifier 2/854835 known as 270 Concord Road, Concord West	By Declaration of Trust dated 29 September 1922 the land is held on trust to permit the same to be used for a church parsonage or parish hall or partly for one or partly for another of such purposes in connection with the Church of England in the parish of Concord West.
Folio Identifiers 1/1964 and 2/1964 and Volume 826 Folio 12 known as 58 Brays Road, Concord	By clause 1 of the St Mary's Concord North Declaration of Trusts Ordinance 1968 the land is held on trust to permit the same to be used for a church parsonage or parish hall or party for one and party for another of such purposes in connection with the Church of England in Australia in the parish of St Mary's Concord North.
Folio Identifier 153/7564 known as 62 Brays Road, Concord North	By clause 3 of the St Mary's Church Mortlake Sale and Mortgage Ordinance 1938 the land is held on trust to permit the same to be used for a church parsonage or parish hall or party for one and partly for another or others of such purposes in connection with the church of England in the Provisional District of St Mary's Mortlake.

Anglican Church Property Trust Diocese of Sydney Client Fund 1074/485	The Client Fund is held on trust for the parish of Concord West with Concord North
Anglican Church Property Trust Diocese of Sydney Client Fund 487	<p>The Concord West with Concord North Ordinance 2000 authorised the application of the net remaining proceeds of sale of land comprised in Folio Identifier 153/7564 known as 62 Brays Road, Concord North, land comprised in Folio Identifier 9/1/5578 known as Corner Brays Road and Rickard Street, Concord North, and land comprised in Folio Identifier 3/854835 known as 268 Concord Road, Concord West as follows -</p> <ul style="list-style-type: none"> (i) an amount of up to \$100,000 (in addition to \$500,000 authorised by the Concord West with Concord North Land Sale Ordinance) for the purpose of purchasing a residence for use as a rectory and meeting the costs of any necessary renovations repairs extensions and fitting out; and (c) the balance and any interest earned thereon upon written request of the churchwardens of Holy Trinity, Concord West pursuant to a resolution from the parish council of the parish of Concord West with Concord North for the renovation and renewal of parish purposes.

Table of Amendments

Clause 6 Amended by Ordinance No 52, 2004.

STEVE LUCAS
Legal Officer

12 February 2008

ROBERT WICKS
Diocesan Secretary