

# Cremorne Trust Ordinance 2019

(Reprinted under the *Interpretation Ordinance 1985*.)

The Cremorne Trust Ordinance 2019 as amended by the Cremorne Trust Ordinance 2019 Amendment Ordinance 2022.

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## Long Title

An Ordinance to vary the trusts on which certain property is held and to establish the ACPT – Cremorne 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 Cremorne Trust Ordinance 2019.

### 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 – Cremorne 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 Cremorne (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 the ACPT investing the amount, for such purposes as a majority of the parish council may from time to time determine, and
- (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 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 and accrued interest 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 –

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- (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) and (2) 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) Subject to clause 9(2), 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 any limit that is determined by the Standing Committee by resolution from time to time for the purposes of this clause.
- (2) Notwithstanding clause 9(1), the ACPT may lease or license that part of the land in folio identifier 1/1222928 property known as 29 Waters Road and the site of the War Memorial Hall, Cremorne for the purposes of a preschool or other similar purpose 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 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. Commencement**

This Ordinance commences on the date of assent.

## Schedule

Column 1	Column 2
The land in folio identifier 1/1222928 known as 29 Waters Road, Cremorne and the site of St Peter's Church and the War Memorial Hall.	The land is held on the trusts set out in the declaration of trusts No. 373 Bk. 893 and No. 1248 Bk.139 namely for church purposes in connection with St Peters Church of England Neutral Bay North and upon further trust to permit the buildings already erected thereon to be extended or completed or rebuilt and to permit a parish hall, rectory and other buildings and improvements to be erected thereon. All of which hereditaments and premises shall be subject to the regulations so far as they may be applicable contained in the Sydney Church Ordinance or any other Ordinance to be passed by the Synod of the Diocese of Sydney in connection with the Church of England altering or modifying the first mentioned ordinance.
ACPT Client Fund 494	The funds are held on trust for the Parish although there are no written trusts.

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### Notes

1. The original form of ordinance was assented to on 29 July 2019.

### Table of Amendments

Clause 6 Amended by Ordinance No 24, 2022.

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26 August 2022