

Dapto Trust Ordinance 2013

No 38, 2013

Long Title

An Ordinance to vary the trusts on which certain property is held and to establish the ACPT – Dapto 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 Dapto Trust Ordinance 2013.

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 the trust fund

The trust fund is to be known as the ACPT – Dapto 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 Dapto (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

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- (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.
- (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 of income arising from investment of the fund known as ACPT Client Fund 0503 (Woodruff Memorial Gift Fund) is to be paid to the wardens of St Luke's Dapto and applied for the purposes of or towards the maintenance and upkeep of that church, its ancillary buildings and grounds, and
 - (c) the remaining 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)(c).

8. Review

- (1) The authority to apply income under clauses 7(1)(b) and (c) 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 clauses 7(1)(b) and (c) 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.

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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 identifier 3/SP60868 known as 3/92-94 Byamee Street Dapto and the site of a residence.	The land is held on trust for the parish of Dapto although there are no written trusts.
The land in folio identifier 227/862077 known as 53 Robins Creek Drive West Dapto and the site of a residence.	The land is held on trust for the parish of Dapto although there are no written trusts.
The land in folio identifier 4/608205 known as Marshall Mount Road Dapto and the site of vacant land.	By the Will of the Late Evan Lindsay Thompson Evans the land is held on trust for the Church of England in Australia parish of Dapto for such religious or charitable purposes of the Church within the parish as shall be decided from time to time by the rector of the said parish in company with a majority of the three churchwardens in office in the said parish for the time being and approved by the Bishop of the Diocese for the time being.
The land in folio identifier 1/215970 known as Princes Highway Dapto and the site of an electrical substation.	The recitals to the Dapto with Albion Park Vesting and Sale Ordinance of 1946 state that by Indenture of Conveyance dated 24 February 1853 Registered Number 518 Book 26 the land is held upon trust for the erection and making thereon of a ministers dwelling house, garden and appurtenances and that the same should be used as a place of residence and glebe for the clergyman of the parish of Dapto.

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Column 1	Column 2
<p>The land in folio identifiers 1/414418, 1/980346 and 18/1023004 known as Prince Edward Drive Dapto and the site of St Luke's Church and cemetery.</p>	<p>The land is held on trust as follows:</p> <p>Folio identifier 1/414418 – On trust for the parish of Dapto although there are no written trusts.</p> <p>Folio identifier 1/980346 – By declaration of trust dated 17 April 1888 the land is held upon trust for a church in connection with the Church of England.</p> <p>Folio identifier 18/1023004 – By deed registered No.940 Bk11 the land is held upon trust for a church or chapel or ministers dwelling of the United Church of England and Ireland and also for a burial ground.</p>
<p>The land in folio identifier 1/224778 known as Corner Princes Highway and Mt Brown Road Dapto and the site of St Aidan's Church.</p>	<p>The land is held on trust for the parish of Dapto although there are no written trusts.</p>
<p>The land in folio identifier 100/1111861 known as Moombara Street Dapto and the site of Dapto Anglican Church.</p>	<p>By clause of the Dapto Variation of Trusts Land Sale and Mortgaging and Dedication Ordinance 1985 the land is held upon trust for a –</p> <ul style="list-style-type: none"> (a) church; (b) residence for a minister, assistant to the minister or person employed by the churchwardens of any church in the parish; (c) hall or halls; (d) school, pre-school or other place of assembly; <p>or partly for one or another or other of those purposes in connection with the Anglican Church of Australia within the Diocese of Sydney for the sole benefit of the parish of Dapto or any parish or ecclesiastical district into which it may subsequently be formed or form a part.</p>
<p>The land in folio identifier 50/788840 known as 125 Bong Bong Road Dapto and the site of a residence.</p>	<p>The land is held on trust for the parish of Dapto although there are no written trusts.</p>
<p>ACPT Client Fund 0508</p>	<p>The fund is held on trust for the parish of Dapto although there are no written trusts.</p>

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Column 1	Column 2
ACPT Client Fund 0503	The fund, known as the H&E Woodruff Memorial Gift Fund, is held on trust for the purposes of the maintenance of St Luke's Church.

I Certify that the Ordinance as printed is in accordance with the Ordinance as reported.

R TONG
Deputy Chairman of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 16 September 2013.

R WICKS
Secretary

I Assent to this Ordinance.

GN DAVIES
Archbishop of Sydney
08/10/2013