

Dulwich Hill Trust Ordinance 2002

No 66, 2002

Long Title

An Ordinance to vary the trusts on which certain property is held and to establish the Dulwich Hill Trust.

Preamble

A. Anglican Church Property Trust Diocese of Sydney 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 Dulwich Hill 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 Dulwich Hill Trust.

5. New trusts

Subject to the terms of this Ordinance, the trust fund is held upon trust for the purposes of the provisional parish of Dulwich Hill (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;
- (c) 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

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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) 20% 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.

(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 5 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 3/529533 known as 15 Herbert Street Dulwich Hill.	The preamble to the Holy Trinity Dulwich Hill Mortgage Ordinance 1963 states that, the land is held for the sole benefit of the parish of Dulwich Hill although there are no written trusts.
Volume 1025 Folio 236 being Lot 9 and Part Lot 10 in Section 2 Deposited Plan 676 known as 2 Herbert Street Dulwich Hill	By Declaration of Trust dated 25 September 1914 the land is held upon trust to permit the same to be used for the erection and maintenance thereon or on part thereof of a Church or Churches for the celebration of divine service according to the rites of the Church of England and the erection and maintenance thereon of a School Hall, Rectory and such other building or buildings as shall be requisite or necessary to be used in connection with the said Church or Churches or otherwise for the purposes in connection with the Church of England in the Parish of Holy Trinity Dulwich Hill.

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<p>Folio Identifier 1/529533 known as the Corner of Seaview St and Herbert St Dulwich Hill</p>	<p>By Declaration of Trust dated 25 September 1914 the land is held upon trust to permit the same to be used for the erection and maintenance thereon or on part thereof of a Church or Churches for the celebration of divine service according to the rites of the Church of England and the erection and maintenance thereon of a School Hall, Rectory and such other building or buildings as shall be requisite necessary to be used in connection with the said Church or Churches or otherwise for the purposes in connection with the Church of England in the Parish of Holy Trinity Dulwich Hill.</p>
<p>Volume 3286 Folio 93 being Part Lot 24, Lot 25, Part Lot 26 in Section 4 Deposited Plan 676 known as 19 Herbert St Dulwich Hill</p>	<p>By Declaration of Trust dated 11 November 1935 the land is held upon trust to permit the same to be used for the purpose of a rectory in connection with the Church of England in the Parish of Holy Trinity Dulwich Hill.</p>
<p>Anglican Church Property Trust Diocese of Sydney Client Fund 517</p>	<p>Pursuant to clause 4 of the Dulwich Hill Land Sale Ordinance 1999 the balance of the proceeds of the sale of land comprised in Volume 4326 Folio 13 known as 17 Bedford Crescent, Dulwich Hill shall be held on trust for the sole purposes of the Parish of Dulwich Hill and income from such proceeds paid to the churchwardens of Holy Trinity, Dulwich Hill quarterly in arrears for the general purposes of the Parish of Dulwich Hill.</p>
<p>Anglican Church Property Trust Diocese of Sydney Client Fund 516</p>	<p>Pursuant to clause 6 of the Dulwich Hill (St Aidan's) Sale Ordinance 1991 the balance of the proceeds arising from the sale of land comprised in Volume 4547 Folio 76 known as 19 Bedford Crescent, Dulwich Hill shall be invested and the income applied as follows: (a) 30% to be capitalised; and (b) the balance paid to the churchwardens of Holy Trinity, Dulwich Hill for the promotion, development and maintenance of the cross cultural ministry of the Parish of Dulwich Hill or for such purpose or purposes as requested from time to time by resolution of the majority of the Parish Council of the Parish of Dulwich Hill and approved by the Standing Committee or, failing such approval, as approved by the Synod of the Diocese of Sydney.</p>

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

PG KELL
Chairman of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 18 November 2002.

MA PAYNE
Secretary

I Assent to this Ordinance.

PETER F JENSEN
Archbishop of Sydney
21/11/2002