

Manly Leasing and Variation of Trusts Ordinance 2006

No 6, 2006

Long Title

An Ordinance to authorise the leasing of certain land at Manly, to provide for the application of the rental proceeds and for purposes incidental hereto.

Preamble

A. Anglican Church Property Trust Diocese of Sydney (the "Property Trust") is the registered proprietor of the whole of the land contained in Certificate of Title Folio Identifier Y/162102 known as the site of commercial offices and retail shops on The Corso in Manly (the "Land").

B. The Land is church trust property. The preamble to the St Matthews Manly Ordinance 1941 recites that the Land is held upon trust as a site and for the purposes of a church of the Church of England and a parsonage and school house in connection therewith.

C. By reason of circumstances which have arisen after the creation of the trusts on which the Land is held it is inexpedient to carry out or observe those trusts or to deal with or apply the Land for the same or like purposes as those trusts or wholly for the purposes of the parish of Manly (the "Parish") and it is expedient that those trusts be varied and that the Land be leased and the proceeds thereof be applied in the manner set out in this Ordinance.

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

1. Name

This Ordinance is the Manly Leasing and Variation of Trusts Ordinance 2006.

2. Declarations

By reason of circumstances which have arisen after the creation of the trusts on which the Land is held –

- (a) it is inexpedient to carry out or observe those trusts or to deal with or apply the Land for the same or like purposes as those trusts or wholly for the purposes of the Parish, and
- (b) it is expedient that those trusts be varied in the manner set out in clause 3 and that the Land be leased and the proceeds thereof be applied in the manner set out in clause 5.

3. Variation of Trusts

- (1) Subject to subclause (2), the Land is held on trust for the purposes of the Parish.
- (2) The trusts of the Land are further varied to permit the application under clause 5(1)(b)(i) of the Ordinance.

4. Authority to Lease

- (1) The Property Trust is authorised to lease from time to time the whole or any part of the Land for a term not exceeding 20 years (including any options to renew).
- (2) The authority to lease in subclause (1) includes leases commencing on and from 31 October 2002.

5. Application of Proceeds from Lease

- (1) The income from any lease granted under clause 4 shall be applied as follows –
 - (a) in and towards payment of all rates, taxes, repairs and maintenance expenses, commissions and other outgoings charged, or to be charged, against the Land or any building erected upon the Land, insofar as the same are not recoverable from any tenant under the leases, and
 - (b) the balance to be applied as follows –
 - (i) 47.5% is to be paid to the Synod of the Diocese of Sydney, or the Standing Committee thereof, for such purpose or purposes as the Synod may determine through ordinances promoted under clause 3 of the Synod Estimates Ordinance 1998, and

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- (ii) 47.5% is to be paid to the Churchwardens of St Matthews Manly (the Churchwardens) 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, and
- (iii) 5% is to be paid to the Churchwardens to be applied towards the payment of the costs and expenses of or incidental to –
 - (A) the alteration, extension, addition, demolition and/or redevelopment of buildings and structures erected on land held on trust for the general or specific purposes of the Parish, and
 - (B) the construction of new buildings or structures whether inside or adjacent to, or in replacement of, the shops and offices on the Land, and
 - (C) the provisions of fixtures and fittings in, or adjacent to, or incidental to, such alteration, extension, addition, redevelopment or construction.

(2) Pending application under clause 5(1) the net income is to be invested and the income capitalised.

(3) On or before 30 September 2010 the Churchwardens must present an ordinance to the Standing Committee to provide for the application of the income arising from the leasing of the Land for the period from and including 1 January 2011 having regard to the needs of the Parish and the Diocese of Sydney.

6. Repeal

The St Matthew's Manly Ordinance 1941 and the Manly Lease Distribution Ordinance 2002 are repealed without affecting the validity of any action undertaken in pursuance of the provisions of those ordinances.

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 1 May 2006.

R WICKS
Secretary

I Assent to this Ordinance.

PETER F JENSEN
Archbishop of Sydney
2/5/2006