

Miranda Trust Ordinance 2015

No 28, 2015

Long Title

An Ordinance to vary the trusts on which certain property is held and to establish the ACPT – Miranda 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 Miranda Trust Ordinance 2015.

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 – Miranda 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 Miranda (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, 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 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) Subject to clauses 7(2) and 7(3), 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 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)(b).
- (3) The income of the trust fund arising from or incidental to any lease authorised by the Miranda Leasing Ordinance 1995 (the "1995 Ordinance") is to be applied as follows –
- (a) first, in payment of any rates, charges, taxes, costs or expenses payable by reason of any lease authorised by the 1995 Ordinance,
 - (b) second, 5% of any part of the lease income exceeding \$20,000 is to be paid to the Synod Fund for application in accordance with an ordinance of the Synod, and
 - (c) 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 for maintenance repairs and necessary building works to or on property held for the purposes of the Parish and ministry costs associated with evangelistic enterprises 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.

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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) 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 Diocese of Sydney Ordinance 1965 or under any other ordinance.

10. 10. Amendment of the Miranda Leasing Ordinance 1995

Substitute clause 4 of the Miranda Leasing Ordinance 1995 with the following –

“4. Application of Rental Monies

The rental moneys arising from or incidental to any lease authorised by this ordinance and all other moneys accruing to or payable to the Property Trust is to be applied in accordance with clause 7(3) of the Miranda Trust Ordinance 2015.”

11. Commencement

This Ordinance commences on the date of assent.

Schedule

Column 1	Column 2
The land in folio identifier 14/236380 known as 12 Ascot Place, Miranda and the site of the rectory.	By clause 4(a) of the Miranda Sale and Variation of Trusts Ordinance 1990 the land is held on trust for a residence for the minister of the parish.
The land in folio identifier 2/809270 known as the corner of Jackson Avenue and The Kingsway, Miranda and the site of St Luke’s church.	By clause 2 of the St Luke’s Miranda Declaration and Variation of Trusts and Lease Ordinance 1970 the land is held upon trust for a church, parsonage or parish hall or partly for one and partly for another or others of such purposes in connection with the Church of England in Australia in the parish of St Luke’s Miranda or any parochial unit into which subsequently it may be formed.

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Column 1	Column 2
The land in folio identifier 21/31861 known as 10 Aster Avenue, Miranda and the site of a residence.	By clause 4(a)(ii) of the Miranda Sale and Variation of Trusts Ordinance 1990 (as amended by clause 9(2)(b) of the Miranda (Assistant Ministers Residence) Ordinance 1990) the land is held on trust for use as a residence for an assistant minister or other person employed by the churchwardens.
The land in folio identifier 38/21078 known as 12 Malvern Road, Miranda and the site of a residence.	The land is held on trust for a residence for an assistant minister or other person employed by the churchwardens of St Luke's Church Miranda for the ministry in the parish of Miranda (the land having been purchased with the funds referred to in clause 3(1)(a) of the Miranda (Variation of Trusts) Ordinance 1994.
The land in folio identifier 18/30569 known as 14 Meldrum Avenue, Miranda and the site of a residence.	The land is held on trust for the parish of Miranda although there are no written trusts.
ACPT Client Fund 616	The fund is held on trust for the parish of Miranda although there are no written trusts.

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

P COLGAN
Deputy Chair of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 14 September 2015.

R WICKS
Secretary

I Assent to this Ordinance.

R FORSYTH
Commissary
29/09/2015