

St Andrew’s Cathedral Trust Ordinance 2016

(Reprinted under the Interpretation Ordinance 1985.)

The St Andrew’s Cathedral Trust Ordinance 2016 as amended by the St Andrew’s Cathedral Trust Ordinance 2016 Amendment Ordinance 2017 and the St Andrew’s Cathedral Trust Ordinance 2016 Amendment Ordinance 2019.

Table of Provisions

Clause	
1	.....Name of this ordinance
2	.....Declarations
3	.....Definition of “trust fund”
4	.....Name of the trust fund
5	.....New trust
6	.....Capital of the trust fund
7	.....Application of the income of the trust fund
8	.....Review
9	.....Powers – leasing and licensing of real property
10	.....Amendment to the Cathedral Ordinance 1969
11	.....Commencement
Schedule	

XXXXXXXXXX

Long Title

An Ordinance to vary the trusts on which certain property is held and to establish the ACPT – St Andrew’s Cathedral 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 this ordinance

This Ordinance is the St Andrew’s Cathedral Trust Ordinance 2016.

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 – St Andrew’s Cathedral Trust.

5. New trust

Subject to the terms of this Ordinance, the trust fund is held upon trust for the purposes of the parish of the Cathedral of St Andrew (the “Cathedral”).

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 cathedral or church;
- (b) a residence for the Dean, an assistant minister or any person employed by the St Andrew’s Cathedral Chapter (the “Chapter”);
- (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) other than the capital arising from Client Funds 744 and 761, 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 Chapter 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 the Chapter, for that purpose; and
- (d) other than the capital arising from Client Funds 744 and 761, 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 Cathedral 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 Chapter makes 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 Chapter is not required by the ACPT for that purpose, the ACPT may pay to the Chapter 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 Chapter an amount equal to the amount of the input tax credit (or proportionate part thereof where the payment made by the Chapter 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) subject to clause 7(3), the balance is to be paid to the Chapter to be applied for such purposes of the Chapter as it may from time to time determine.

(2) The income of the trust fund arising from a lease or licence granted pursuant to clause 9(1) or 9(2) is to be applied in accordance with clause 7(1)(b).

(3) The balance of the income of the trust fund arising from the investment of that part of the capital comprising Client Funds 744 and 761 is to be applied on application from the Chapter for the purpose of the support, maintenance, upkeep and repair of the building, fabric, decoration, existing ornaments, fixtures and furniture of the St Andrew's Cathedral (including the Cathedral offices) and the Chapter House.

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 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 Chapter, 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) Notwithstanding clause 9(1), with the written consent of the Chapter, the ACPT may also lease or license that part of the land in folio identifier 5/785173 comprising the Upper Chapter House of St Andrew's Cathedral to the Council of St Andrew's Cathedral School for a term of up to 40 years (including any options), 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. Amendment to the Cathedral Ordinance 1969

The Cathedral Ordinance 1969 is amended by omitting clause 20 and inserting the following instead –

"20. Quorum

Nine members of Chapter including at least 3 clerical members and at least 4 lay members constitute a quorum at a meeting of the Chapter."

11. Commencement

This Ordinance commences on the date of assent.

Schedule

Column 1	Column 2
Folio identifier 5/785173, known as corner George Street and Bathurst Street, Sydney	By Section 3(a) of the Saint Andrew's Cathedral Site Act 1935 the land is held on trust for all or any of the following purposes, that is to say, a site for a Cathedral church, a residence for the chief officiating minister of the Cathedral, a church house and offices, and otherwise in connection with the cathedral and the administration of the affairs of the Church of England in the Diocese of Sydney.

Column 1	Column 2
Folio identifier 4/839459, known as 27B Pemberton Street, Strathfield West	The land is held on trust for the St Andrew's Cathedral Chapter pursuant to clause 4(b) of the Endowment of the See (West Strathfield) Variation of Trusts Ordinance 2003.
ACPT Client Fund 475	By clause 4 of the Cathedral (Cheltenham) Land Sale Ordinance 1997 the fund is held on trust for the purposes of the Chapter of St Andrew's Cathedral.
ACPT Client Fund 477	The fund is held on trust pursuant to the St Andrew's Cathedral Land Sale Ordinance 2001.
ACPT Client Fund 744	In accordance with Schedule 7, section (c) of the Endowment of the See Ordinance 1977, the trusts shall be held and invested so to preserve, as far as may be possible the real value of the capital, the Property Trust having full powers as to the capitalisation of income to preserve the real value of the endowment and the distribution of income to the St Andrew's Cathedral Chapter for the maintenance of the Cathedral and the Chapter House.
ACPT Client Fund 762	<p>By clause 3 of the St Andrew's Cathedral Endowments Ordinance 1990, the trusts which shall apply to moneys for the time being held in the Cathedral Ministry Endowment Fund shall be as follows, namely in or towards the advancement of the Christian Faith by the deployment of persons and resources in or associated with the Cathedral in teaching, pastoral, counselling, evangelism and other appropriate means of Christian ministry within the Cathedral and any ecclesiastical district assigned to the Cathedral and the remainder of the Diocese of Sydney, and without limiting the generality of the foregoing, in or towards –</p> <ul style="list-style-type: none"> (a) the payment of stipends and emoluments of clerical or lay persons employed or engaged in teaching, pastoral, evangelistic, administrative and liturgical work or for other appropriate associated functions in the name of the Cathedral Church and carried on with the authority of and subject to the direction and control of the Archbishop, the Dean or the Chapter of the Cathedral; (b) the payment of costs and expenses incidental to the conduct of services, meetings, displays, promotions, activities, committees or organisations or ministries established, organised, sponsored, supported, conducted or carried on within or about the Cathedral Church permitted by, directed or controlled by the Archbishop, the Dean of the Chapter of the Cathedral.

Column 1	Column 2
ACPT Client Fund 761	By clause 4 of the St Andrew's Cathedral Endowment Ordinance 1990, the trusts which shall apply to moneys for the time being held in the Cathedral Buildings Endowment Fund shall be as follows, namely in or towards the support, maintenance, upkeep and repair of the building, fabric, decoration, existing ornaments, fixtures and furniture of the St Andrew's Cathedral Church and the Chapter House.

Notes

1. The original form of ordinance was assented to on 20 September 2016.

Clause 7 Amended by Ordinance No 28, 2017.

Clause 9 Amended by Ordinance No 28, 2017 and No 30, 2019.

STEVE LUCAS
Senior Legal Counsel

DANIEL GLYNN
Diocesan Secretary

30 August 2019