

# Dundas/Telopea Trust Ordinance 2012

(Reprinted under the Interpretation Ordinance 1985.)

The Dundas Telopea Trust Ordinance 2012 as amended by the Dundas /Telopea Trust Ordinance 2012 Amendment Ordinance 2019, and the Dundas/Telopea Trust Ordinance 2012 Amendment Ordinance (Property Receipts Levy) Ordinance 2019.

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## Long Title

An Ordinance to vary the trusts on which certain property is held and to establish the ACPT – Dundas/Telopea 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 Dundas/Telopea Trust Ordinance 2012.

### 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 –

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“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 – Dundas/Teloepa 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 Dundas/Teloepa (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
- (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

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- (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) and 9(2) 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 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) Subject to clause 9(2), 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 any limit that is determined by the Standing Committee by resolution from time to time for the purposes of this clause.
- (2) Notwithstanding clause 9(1) the ACPT may lease or license part of the land in folio identifier 20/604517 known as the Warehouse and certain car-parking spaces at 32 South Street, Rydalmere 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 18 years, without limitation 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.

### **9A. Property Receipts Levy Exemption**

Pursuant to clause 4(b)(ii) of the *Property Receipts Levy Ordinance 2018*, the Standing Committee declares that the Property Receipts Levy does not apply to any income from a lease or licence –

- (i) of the land in folio identifier 20/604517 known as the Warehouse and certain car-parking spaces at 32 South Street, Rydalmere, or
  - (ii) granted under clause 9 of the *Dundas/Telopea Trust Ordinance 2012*, and
- during the period 1 January 2019 to 1 January 2031.

### **10. Commencement**

This Ordinance commences on the date of assent.

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### Schedule

Column 1	Column 2
The land in folio identifiers 580/36692, 581/36692 and 582/36692 known as 26 Lord Avenue Telopea and the site of St Stephens church, parish hall, and a residence.	The land is held upon trust for the parish of Dundas although there are no written trusts.
The land in folio identifier 10/219954 known as 7 St Andrews Place Rydalmerre and vacant land.	The land is held upon trust for the parish of Dundas although there are no written trusts.
The land in folio identifiers 7/219954 and 8/219954 known as 7 St Andrews Place Rydalmerre and the site of St Andrews Church, parish hall and a residence.	The land, which forms part of the land formerly contained in Certificates of Title Volume 9161 Folio 88 and Volume 9302 Folio 11, is by clause 1 of the St Andrews Dundas Declaration of Trust, Subdivision Land Sale Ordinance 1963, held upon trust to permit the same to be used for a church, parsonage and parish hall or partly for one and partly for another of such purposes in connection with the Church of England in Australia at Dundas.

### Notes

At its meeting of 17 October 2022, Standing Committee resolved, under clause 8 of the *Dundas/Telopea Trust Ordinance 2012*, to extend the review date by a further 10 years to 10 December 2032.

### Table of Amendments

Clause 7 Amended by Ordinance No 25, 2019  
Clause 9 Amended by Ordinance No 25, 2019  
Clause 9A Inserted by Ordinance No 56, 2019.

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28 November 2019