

# East Sydney (Darlinghurst) Variation of Trusts Ordinance 2003

No 41, 2003

## Long Title

An Ordinance to vary the trusts of a fund held by the Anglican Church Property Trust Diocese of Sydney for certain purposes of the parish of East Sydney.

## Preamble

A. Anglican Church Property Trust Diocese of Sydney (the "Property Trust") is the trustee of a fund (the "Fund") comprising the remaining proceeds of sale arising from the East Sydney (Darlinghurst) Land Sale Ordinance 1995 (the "Sale Ordinance").

B. The Fund is held on the trusts referred to in recitals B and C of the Sale Ordinance.

C. The Property Trust is authorised to apply the net income from the investment of the Fund in accordance with clause 4 of the East Sydney (Darlinghurst) Sale Proceeds and Distribution Ordinance 2000.

D. By reason of circumstances which have arisen after the creation of the trusts on which the Fund is held it is inexpedient to carry out or observe those trusts or to deal with or apply a part of the Fund for the same or like purposes as those trusts and it is expedient that the trusts be varied 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 East Sydney (Darlinghurst) Variation of Trusts Ordinance 2003.

### 2. Declarations

By reason of circumstances which have arisen after the creation of the trusts on which the Fund is held it is inexpedient to carry out or observe those trusts or to deal with or apply a part of the Fund for the same or like purposes as those trusts and it is expedient that the trusts be varied in the manner set out in this ordinance.

### 3. Variation of trusts

(1) The trusts on which the Fund is held are varied to enable the Property Trust to pay an amount or amounts which in total do not exceed \$500,000 (or such greater amount as the Standing Committee may approve by resolution) to the churchwardens of St John's Darlinghurst (the "Churchwardens") to be used for the general purposes of the parish of East Sydney, excluding the rector's stipend and allowances.

(2) The amount or amounts referred to in clause 3(1) are to be paid as follows –

- (a) by an initial payment of \$75,000 within 7 days from the date of assent to this ordinance, and
- (b) by monthly payments of \$25,000 (or such other amount not exceeding \$25,000 as may be requested by the Churchwardens in writing), the first such payment to be made within 7 days from the date the Churchwardens give the Property Trust written notice that the Stage 2 Development Application (referred to in paragraph 44 of the report of the South Sydney Ordinance Review Panel in respect of this ordinance) has been lodged with the City of Sydney Council or other consent authority.

(3) The authority to pay an amount or amounts under clause 3(1) terminates on the date the Occupation Fee referred to in clause 5(f) of the East Sydney (Kings Cross) Development Ordinance 2002 becomes payable.

### 4. Replenishment of capital of the Fund

The Churchwardens will take reasonable endeavours to ensure that the ordinance promoted to the Standing Committee pursuant to a review required by clause 8 of the East Sydney (Kings Cross) Development Ordinance 2002 makes provision for the replenishment of any capital from the Fund expended pursuant to clause 3.

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### 5. Heritage buildings

The East Sydney (Darlinghurst) Sale Proceeds and Distribution Ordinance 2000 is amended as follows –

- (a) delete the word “The” in clause 4 and insert instead the matter “Subject to clause 4A, the”; and
- (b) insert the following clause 4A after the existing clause 4 –

**“4A. Heritage buildings**

If –

- (a) an order is made under the Heritage Act 1977 in relation to any building or other improvements listed on the State Heritage Register situated on land held on trust for the Parish; or
- (b) the condition of any such building or other improvement is such that it is reasonable to conclude in accordance with the recommendation in a report commissioned from a heritage architect or other expert on heritage buildings, that an order may be made under that Act in relation to that building or improvement; or
- (c) as regards any such building or improvement, an offence is committed under that Act,

the Property Trust may –

- (d) do all such works and other things as to comply with the order, avoid the issue of the order or satisfy the omission or action which has given rise to the offence (as the case may be), and
- (e) apply the whole or any part or parts of the income from the investment referred to in clause 3 in or towards meeting the cost of all such works and things.”

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 29 September 2003.

MA PAYNE  
Secretary

I Assent to this Ordinance.

PETER F JENSEN  
Archbishop of Sydney  
30/9/2003