



## **Surry Hills Variation of Trusts Ordinance 1997**

No 15, 1997

### **Long Title**

An Ordinance to vary the trusts of certain property.

### **Preamble**

Whereas

A. Under the St Michael's Sydney Ordinance 1994 the churchwardens of St Michael's Church, Flinders Street Sydney, also known as the parish of St Michael's Surry Hills, (the "Churchwardens") are required to promote an ordinance to deal with the distribution of income earned by the fund described as the '1994 Fund' in that Ordinance.

B. Anglican Church Property Trust Diocese of Sydney (the "Property Trust") is the registered proprietor of the land being Folio Identifier B/401545 and known as 22 Marcel Avenue Randwick (the "Randwick Land") which, by the will of the late Jessie Joyce Boyd, is held upon trust for the general purposes of St Michael's Anglican Church at Surry Hills.

C. The Property Trust is also the registered proprietor of the land being lot 1 in deposited plan 584238 and lot 2 in deposited plan 958298 (collectively the "Surry Hills Land") upon which is erected St Michael's Church, hall and old rectory.

D. By clause 8 of the St Michael's Surry Hills Resumption Ordinance of 1915 the Surry Hills Land is held upon trust as to such part or parts thereof as the Property Trust shall with the approval of the Archbishop of Sydney deem expedient as the site for St Michael's Church as to a further part or parts thereof as the site of a dwelling house with a garden and other appurtenances for the clergyman duly appointed to officiate in St Michael's Church and as to the residue of the said lands and hereditaments as the site of a school house and/or parish hall for use in connection with the said Church.

E. By reason of circumstances which have arisen after the creation of the trusts on which the 1994 Fund, the Randwick Land and the Surry Hills Land are respectively held, it is inexpedient to carry out and observe those trusts and it is expedient that the trust be varied as set out in this Ordinance.

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

### **Name of Ordinance**

1. This Ordinance is the Surry Hills Variation of Trusts Ordinance 1997.

### **Declarations of Inexpediency**

2. By reason of circumstances which have arisen after the creation of the trusts on which the 1994 Fund, the Randwick Land and the Surry Hills Land are respectively held it is inexpedient to carry out and observe the same and it is expedient to vary the trusts on the terms set out in this ordinance.

### **1994 Fund Income**

3. The St Michael's Sydney Ordinance 1994 is amended as follows -

(a) in clauses 2 and 3 the matter "1976 Ordinance Fund" is omitted and the matter "1972 Ordinance Fund" is inserted instead;

(b) in clause 7(1) -

(i) the first word, "The", is omitted and the following is inserted instead -

"Until 21 February 1997 the"; and

(ii) the matter "during the period of 3 years after the date of assent to this ordinance" is omitted;

(c) existing clause 7(2) is renumbered as clause 7(3) and in it -

(i) the matter "After the 3rd anniversary of the date of assent to this ordinance" is omitted and the matter "After 31 December 2001" is inserted instead; and

(ii) the matter "1 December 1996" is omitted and the matter "1 June 2001" is inserted instead; and

(d) a new clause 7(2) is inserted as follows -

"The income earned on the 1994 Fund during the period from 22 February 1997 until 31 December 2001 shall be applied as follows -

(a) 20% is to be capitalised;

(b) 10% is to be paid to the South Sydney Regional Council for the charitable purposes of that Council;

(c) 5% is to be paid to the trustee of the property held on the trusts set out in the Diocesan Endowment Ordinance 1984 to be added to the capital of that property; and

(d) the balance to be paid to the Churchwardens to be applied by them for such purposes of the Parish as the parish council may by resolution approve."

#### **Trusts of the Randwick Land**

4. The Randwick Land shall be held upon trust for the purposes of the Anglican Church of Australia within the Diocese of Sydney for the sole benefit of the parish of Flinders Street (Sydney) or any parish or ecclesiastical district into which it may be subsequently formed or of which it may subsequently form a part.

#### **Mortgaging of the Randwick Land**

5. (1) The Property Trust is empowered to mortgage from time to time the Randwick Land for the purpose of borrowing such sum as may have been last approved by the Standing Committee by resolution.

(2) The amount borrowed on the security of any mortgage granted pursuant to this clause shall be applied only for any purpose authorised by resolution of the Standing Committee upon written request by a majority of the parish council of the Parish.

6. Any document certified by the Archbishop or the Diocesan Secretary as a copy of any resolution of the Standing Committee passed pursuant to this Ordinance shall in favour of a mortgagee or any person claiming under a mortgage granted pursuant to this Ordinance be conclusive evidence that the resolution was duly passed.

7. While any money is secured by mortgage granted pursuant to this Ordinance the Churchwardens in every statement of assets and liabilities prepared for the purpose of an annual vestry meeting must disclose the amount secured by the mortgage on the last day of the financial year to which the statement of assets and liabilities relates.

#### **Leasing of the Randwick Land**

8. The Property Trust is empowered, upon written request by a majority of the parish council of the Parish, to -

(a) grant a lease or leases or licence or licences in respect of the whole or any part of the Randwick Land; and

(b) accept surrenders of any such lease or leases or licence or licences.

**Trusts of the Surry Hills Land**

9. The Surry Hills Land shall henceforth be held upon trust for -

(a) a church;

(b) a residence for a minister, assistant to the minister or person employed by the churchwardens;

(c) a hall or halls; or

(d) a school or other place of assembly, or partly for one and partly for another or others of those purposes or for any other purpose as determined from time to time by the parish council of the Parish in connection with the Anglican Church of Australia within the Diocese of Sydney for the sole benefit of the Parish or any parish or ecclesiastical district into which it may be subsequently formed or of which it may subsequently form a part.

**Leasing of the Surry Hills Land**

10. The Property Trust is empowered, upon written request by a majority of the parish council of the Parish, to -

(a) grant a lease or leases or licence or licences in respect of that part of the Surry Hills Land being the residence and the hall; and

(b) accept surrenders of any such lease or leases or licence or licences.

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

**N.M. CAMERON**

*Chairman of Committees*

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 23 June 1997.

**W.G.S. GOTLEY**

*Secretary*

I Assent to this Ordinance.

**R.H. GOODHEW**

*Archbishop of Sydney*  
23/6/1997