

Oakhurst Subdivision Leasing and Variation of Trusts Ordinance 2010

No 2, 2010

Long Title

An Ordinance to permit the subdivision, leasing and variation of trusts of certain land at Oakhurst and matters consequential thereto.

Preamble

A. Anglican Church Property Trust Diocese of Sydney (the "Property Trust") is the registered proprietor of the land contained in Folio 100 in DP845891 (Identifier 100/845891) (the "Land").

B. Sydney Anglican Schools Corporation (the "Corporation") is the registered proprietor of the whole of the land located at 6 Flora Street, Oakhurst, being the whole of the land in Identifier 54/5027 (the "Flora Street Property").

C. By clause 5 of the Oakhurst Trust Ordinance 2005 that part of the Land being Lot 1002 in the proposed plan of subdivision signed by the Diocesan Secretary and dated 28 February 2003 ("Plan of Subdivision") is held on trust for the purposes of the Parish of Oakhurst (the "Parish"). The remainder of the Land forms part of the Mission Property Fund and by clause 5A of the Mission Property Ordinance 2002 is held on trust for the purposes of the Anglican Church of Australia in the Diocese of Sydney.

D. By reason of circumstances which have arisen after the creation of the trusts on which the Land is held it is inexpedient to carry out or observe those trusts or to deal with or apply the Land for the same or like purposes as those trusts or to deal with or apply the Land wholly for the purposes of the Parish and it is expedient to –

- (a) subdivide the Land into 2 allotments in accordance with the Plan of Subdivision and to create such easements, rights of carriageways and restrictions as are reasonably necessary in connection with the subdivision,
- (b) vary the trusts of Lot 1001 in the Plan of Subdivision, and
- (c) lease Lot 1002 in the Plan of Subdivision,

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 Oakhurst Subdivision Leasing and Variation of Trusts Ordinance 2010.

2. Declaration

By reason of circumstances which have arisen after the creation of the trusts on which the Land is held it is inexpedient to carry out or observe those trusts or to deal with or apply the Land for the same or like purposes as those trusts or to deal with or apply the Land wholly for the purposes of the Parish and it is expedient to –

- (a) subdivide the Land into 2 allotments in accordance with the Plan of Subdivision and to create such easements, rights of carriageways and restrictions as are reasonably necessary in connection with the subdivision in the manner set out in clause 3,
- (b) vary the trusts of Lot 1001 in the Plan of Subdivision in the manner set out in clause 4, and
- (c) lease Lot 1002 in the Plan of Subdivision in the manner set out in clause 5.

3. Authority to subdivide

The Property Trust is authorised to do all things necessary and incidental to subdivide the Land to create Lots 1001 and 1002 in accordance with the Plan of Subdivision and to create such easements, rights of carriageway and restrictions as are reasonably necessary in connection with the subdivision.

Oakhurst Subdivision Leasing and Variation of Trusts Ordinance 2010

4. Variation of Trusts

On and from the date of registration of the Plan of Subdivision Lot 1001 is to be held upon trust for the purposes of the Corporation.

5. Authority to lease

The Property Trust is authorised to lease to the Corporation Lot 1002 for a period of 50 years commencing from the date on which the Plan of Subdivision is registered on such terms and conditions as the Property Trust and the Corporation may agree. Such terms will include –

- (a) the permitted use of Lot 1002 by the Parish for the purposes of conducting services and other normal Parish activities as may be agreed from time to time between the Corporation and the Parish Council of the Parish,
- (b) the Corporation being permitted to use Lot 1002 to construct improvements thereon for a school and to carry on such school as is required by the Corporation,
- (c) the permitted use of part of Lot 1002 by the Parish as a Long Day Care Centre or for other activities of the Parish as may be agreed between the Corporation and the Parish from time to time where these activities are not inconsistent with the use of Lot 1002 by the Corporation for the operation of the School,
- (d) the Corporation shall be responsible for the maintenance and upkeep of all improvements erected on Lot 1002 during the term of the lease,
- (e) the Corporation shall pay a rental of \$1.00 per annum, if requested, to the Parish for its occupation of Lot 1002, and
- (f) when the lease is entered into between the Property Trust and the Corporation in respect of Lot 1002, the Corporation must grant to the Property Trust for and on behalf of the Parish a lease for a period of 50 years commencing on the same date as the lease for Lot 1002 whereby the Parish shall be entitled to use the Flora Street Property as a rectory or residence for the benefit of the Parish for the term of the lease, with such lease containing such terms as may reasonably agreed between the Corporation and the Property Trust for and on behalf of the Parish with the Parish to be responsible for the maintenance and repair of all improvements erected on the Flora Street Property.

6. Dispute Resolution

In the event that the Parish and SASC cannot reach agreement on some matter concerning the shared use of Lot 1002 in accordance with clause 5 either party may appeal to the Archbishop or his nominee to determine the matter. The Archbishop or his nominee may make such enquires, seek such advice and do all such things as appear reasonable and proper in the circumstances before making a determination. The parties will be bound by any determination of the Archbishop or his nominee made under this clause.

7. Amendment to the Mission Property Ordinance 2002

On the date that the variation of trusts in clause 4 takes effect the Mission Property Ordinance 2002 is amended by deleting the following matter in the table in the schedule –

Part Lot 100 Hyatts & Jersey Road, Oakhurst	Lot 100 in Deposited Plan 845891 (excepting Lot 1002 in a proposed plan of subdivision held on trust for the provisional parish of Oakhurst)
---	--

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

R TONG
Chairman of Committees

Oakhurst Subdivision Leasing and Variation of Trusts Ordinance 2010

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 29 March 2010.

R WICKS
Secretary

I Assent to this Ordinance.

PETER F JENSEN
30/03/2010