Oakhurst (Richard Johnson College) Leasing and Variation of Trusts Ordinance 2021

No , 2021

# Long Title

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

# Preamble

1. Anglican Church Property Trust Diocese of Sydney (the **ACPT**) is the registered proprietor of the land contained in Folio Identifier 100/845891 known as Hyatts and Jersey Roads, Oakhurst (the **Hyatts and Jersey Road Property**).
2. The Anglican Schools Corporation (the **Corporation**) is the registered proprietor of the land contained in Identifier 54/5027 known as 6 Flora Street, Oakhurst (the **Flora Street Property**).
3. By clause 5 of the *Oakhurst Trust Ordinance 2005* that part of the Hyatts and Jersey Road Property, being Lot 1002 in the proposed plan of subdivision signed dated 28 February 2003 by the Diocesan Secretary (the **Plan of Subdivision**), is held on trust for the purposes of the Parish of Oakhurst (the **Parish**).
4. The remainder of the Hyatts and Jersey Road Property, being Lot 1001 in the Plan of Subdivision, 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.
5. The Corporation paid the sum of $116,000 to the ACPT on or about 1 January 1997 to acquire a 31.35% interest in Lot 1001 of the Plan of Subdivision. The Anglican Church Property Trust Diocese of Sydney continues to hold a 68.65% interest in Lot 1001 of the Plan of Subdivision (but not the buildings and other improvement thereon) as part of the Mission Property Fund.
6. The *Oakhurst Subdivision Leasing and Variation of Trusts Ordnance 2010* authorised a subdivision of the Hyatts and Jersey Road Property in accordance with the Plan of Subdivision and certain other matters consequence upon the registration of that plan. The subdivision is prohibitive as a result of the cost of the infrastructure required and the disruption those works would cause to the use of the Hyatts and Jersey Road Property by both the Parish and the Corporation. The Parish and the Corporation have agreed to the arrangements set out in this Ordinance as an alternative to the subdivision and matters consequential thereto.
7. By reason of circumstances which have arisen after the creation of the trusts on which the Hyatts and Jersey Road Property is held, it is inexpedient to carry out or observe those trusts and it is expedient to vary those trusts and to lease the Hyatts and Jersey Road Property in the manner set out in this Ordinance.

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

## Name

This Ordinance is the Oakhurst (Richard Johnson College) Leasing Ordinance 2021.

## Declarations

## By reason of circumstances which have arisen after the creation of the trusts on which the Hyatts and Jersey Road Property is held, it is inexpedient to carry out or observe those trusts and it is expedient to –

## vary those trusts in the manner set out in clause 3, and

## to lease the Hyatts and Jersey Road Property in the manner set out in clause 4.

## Variation of Trust

The Trusts of the Hyatts and Jersey Road Property are varied to the extent necessary to permit the arrangements set out in this Ordinance.

## Lease

(1) The ACPT is authorised to lease the Hyatts and Jersey Road Property to the Anglican Schools Corporation for a period of 50 years subject to –

1. the Corporation leasing the buildings and licensing the land on that on that part of the Hyatts and Jersey Road Property marked as ‘Church Land’ in the aerial photo in the Schedule (the **Church Land**) to the ACPT for a period of 50 years, with such lease and licence to be held on trust for the purposes of the Parish,
2. the Corporation and the Parish having shared use of that part of the Hyatts and jersey Road Property marked as ‘Car Park’ in the aerial photo in the Schedule (the **Carpark**) for a period of 50 years,
3. the Corporation transferring the Flora Street Property to the ACPT to be held on trust for the purposes of the Parish as part of the capital of the ACPT-Oakhurst Trust under the *Oakhurst Trust Ordinance 2005*,
4. the Corporation being be responsible for the maintenance and upkeep of all improvements erected on the Hyatts and Jersey Road Property, other than improvements on the Church Land, and except that the maintenance and upkeep of the Carpark is to be shared by the Parish and the Corporation on a proportional basis having regard to their respective use of the Carpark, and
5. such other terms and conditions as it may think fit.

## Dispute Resolution

In the event that the Parish and the Corporation cannot reach agreement on some matter concerning the use of the Hyatts and Jersey Road Property 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, subject to such determination not being inconsistent with any contractual agreements between the parties.

## Repeal

The *Oakhurst Subdivision Leasing and Variation of Trusts Ordnance 2010* is repealed without affecting the validity of any action taken pursuant to the ordinance prior to its repeal.

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

Chair of Committee

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 2021.

Secretary

I Assent to this Ordinance.

Archbishop of Sydney

 / /2021