

Ashfield, Five Dock and Haberfield Variation of Trusts and Amendment Ordinance 2020

No 53, 2020

Long Title

An Ordinance to vary the trusts on which certain property is held, to consolidate the property in the ACPT- Ashfield, Five Dock and Haberfield trust and make consequential amendments to the *Ashfield Trust Ordinance 2001*.

Preamble

A. The Anglican Church Property Trust (the “ACPT”) is the trustee of the property described in the First Schedule (together, the “Five Dock Property”).

B. The Five Dock Property is held on the trust for the purposes of the Parish of Five Dock under the trusts described in the First Schedule.

C. The ACPT is the trustee of the property described in the Second Schedule (together, the “Haberfield Property”).

D. The Haberfield Property is held on the trust for the purposes of the Parish of Haberfield under the trusts described in the Second Schedule.

E. The ACPT is the trustee of the property described in the Third Schedule (together, the “Ashfield Property”).

F. The Ashfield Property is, by clause 5 of the Ashfield Trust Ordinance 2001, held on trust for the purposes of the Parish of Ashfield.

G. The Parish of Five Dock, the Parish of Haberfield and the Parish of Ashfield have been amalgamated under the *Parishes Ordinance 1979* to form the Parish of Ashfield, Five Dock and Haberfield.

H. By reason of circumstances which have arisen after the creation of the trusts on which the Five Dock Property, the Haberfield Property and the Ashfield Property is held, it is inexpedient to carry out and observe those trusts and it is expedient to vary those trusts 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 Ashfield, Five Dock and Haberfield Variation of Trusts and Amendment Ordinance 2020.

2. Declarations

(1) By reason of circumstances which have arisen after the creation of the trusts on which the Five Dock Property is held, it is inexpedient to carry out or observe those trusts, or to deal with or apply such property for the same or like purposes as those trusts or wholly for the purposes of the Parish of Five Dock, and it is expedient that those trusts be varied in the manner set out in clause 4.

(2) By reason of circumstances which have arisen after the creation of the trusts on which the Haberfield Property is held, it is inexpedient to carry out or observe those trusts, or to deal with or apply such property for the same or like purposes as those trusts or wholly for the purposes of the Parish of Haberfield, and it is expedient that those trusts be varied in the manner set out in clause 4.

(3) By reason of circumstances which have arisen after the creation of the trusts on which the Ashfield Property is held, it is inexpedient to carry out or observe those trusts, or to deal with or apply such property for the same or like purposes as those trusts or wholly for the purposes of the Parish of Ashfield, and it is expedient that those trusts be varied in the manner set out in clause 4.

3. Amendment

(1) The *Ashfield Trust Ordinance 2001* is amended as follows –

Ashfield, Five Dock and Haberfield Variation of Trusts and Amendment Ordinance 2020

- (a) substitute the words “Ashfield, Five Dock and Haberfield” for the word “Ashfield” wherever it appears excluding –
 - (i) clause 7(2)(a) in the phrase “St John’s Ashfield Preschool”,
 - (ii) clause 10(2)(b) in the phrase “St John’s Church, Ashfield”
 - (iii) when the word appears in the Schedule,
- (b) insert the matter “ACPT –” in the Long Title before the words “Ashfield, Five Dock and Haberfield”,
- (c) substitute the word “ACPT” for the words “Property Trust” wherever it appears excluding where the word appears in –
 - (i) recital A of the Preamble in the phrase “Anglican Church Property Trust Diocese of Sydney”, and
 - (ii) clause 9(2) in the phrase “*Anglican Church Property Trust Ordinance 1965*”,
- (d) substitute the word “wardens” for the word “churchwardens” wherever it appears,
- (e) delete the full stop at the end of clause 6(2)(d) and insert instead “, provided that any such purposes directed by resolution must be within the purposes of the Parish in accordance with clause 5.”,
- (f) delete all the matter in clause 7(2) and insert instead the following –

“(2) The income of the trust fund arising from a lease or licence granted pursuant to clause 9(1) is to be applied in accordance with clause 7(1)(b).”
- (g) delete the number “10” in clause 8(2) and insert instead the number “29”,
- (h) delete all the matter in clause 9(1) and insert instead the following –

“(1) 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.”,
- (i) delete the matter “Anglican Church Property Trust Ordinance 1965” in clause 9(2) and insert instead the matter “*Anglican Church Property Trust Diocese of Sydney Ordinance 1965*”.

4. Variation of trusts

The trusts of the Five Dock Property, the Haberfield Property and the Ashfield Property are varied so that it is held on the trusts set out in clause 5 of the *Ashfield, Five Dock and Haberfield Trust Ordinance 2001* (as amended by this Ordinance) as part of the capital of the ACPT – Ashfield, Five Dock and Haberfield Trust.

First Schedule

Column 1	Column 2
The land contained in folio identifier D/158552 known as Great North Road, Five Dock and part of the site of St Alban’s Five Dock.	That part of the land referred to in registered deed book 99 number 614 is held on trust – <ul style="list-style-type: none"> (a) as to part, for the erection thereon of a church for the celebration of divine worship according to the rites and ceremonies of the United

Ashfield, Five Dock and Haberfield Variation of Trusts and Amendment Ordinance 2020

	<p>Church of England and Ireland; and</p> <p>(b) as to the remaining part, upon trusts to permit and suffer the same to be used for the erection of a school for the purpose of educating young persons according to the principles of the United Church of England and Ireland.</p> <p>That part of the land referred to in registered deed book 1585 number 948 is held upon trust to permit the same to be used for a church, parsonage or parish hall or partly for one and partly for another or others of such purposes in connection with the Church of England in the Parish of St Alban's Five Dock.</p>
The land in folio identifier 8/17324 known as 171 Great North Road, Five Dock and part of the site of St Alban's Five Dock.	By declaration of trust made on 3 July 1924, the property is held on trust to be used for a church, parsonage or parish hall or partly for one and partly for another or others of such purposes in connection with the Church of England in the Parish of St Alban's Five Dock.
The land in folio identifier 9/17324 known as Henry Street, Five Dock and the site of a laneway.	By clause 1 of the St Alban's Five Dock Mortgaging and Leasing Ordinance 1925, the land is held upon trust to permit the same to be used for a Church, Parsonage or Parish Hall or partly for one and partly for another or others of such purposes in connection with the Church of England in the Parish of St Alban's, Five Dock.
The land in folio identifier 5/17324 known as 1B Henry Street, Five Dock and the site of a residence.	By clause 3 of the <i>Ashfield, Five Dock and Haberfield Variation of Trusts and Mortgaging Ordinance 2016</i> the land is held upon trust for the parish of Ashfield, Five Dock and Haberfield.
The land contained in folio identifier 4/17324 known as 1A Henry Street, Five Dock and the site of a residence.	By clause 3 of the <i>Ashfield, Five Dock and Haberfield Variation of Trusts and Mortgaging Ordinance 2012</i> the land is held upon trust for the parish of Ashfield, Five Dock and Haberfield.
The land in folio identifiers 6/17324 and 7/17324 known as 177-179 Great North Rd, Five	By the St Alban's Five Dock Ordinance 1956 the land being Lot 6 in DP17324 is held upon

Ashfield, Five Dock and Haberfield Variation of Trusts and Amendment Ordinance 2020

Dock and the site of a hall and rectory.	trust for the parish of Five Dock. By declaration of trust made by the Property Trust on 3 July 1935 and clause 1 of the St Albans Five Dock Mortgaging and Leasing Ordinance the land being Lot 7 is held upon trust to permit the same to be used for a church, parsonage or parish hall or partly for one and partly for another or others of such purposes in connection with the Church of England in the Parish of St Albans Five Dock.
ACPT Client Fund 0363	The funds are held upon trust for the Parish although there are no written trusts.

Second Schedule

Column 1	Column 2
The land contained in folio identifier 1/927849 known as 8 Dickson Street, Haberfield and the site of a rectory.	By clause 3 of the <i>Ashfield, Five Dock and Haberfield Variation of Trusts and Mortgaging Ordinance 2016</i> the land is held upon trust for the parish of Ashfield, Five Dock and Haberfield.
The land contained in folio identifier folio identifiers 1/930432 and 2/318038 known as Dickson Street and Dalhousie Street, Haberfield and the site of church and hall.	By Declarations of Trust dated 21 July 1924 and 9 September 1927, the land is held upon trust to permit the same to be used for a church, parsonage or parish hall or partly for one and partly for another or others of such purposes in connection with the Church of England in the parish of Haberfield.
ACPT Client Fund 0561	The funds are to be applied pursuant to Clause 4 of the <i>Five Dock/Haberfield Ordinance 2004</i> .

Third Schedule

Column 1	Column 2
The land contained in folio identifier 2/208481 known as 64 Bland Street, Ashfield and the site of a hall.	By clause 6(1) of the <i>Ashfield Trust Ordinance 2001</i> , the land 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

Ashfield, Five Dock and Haberfield Variation of Trusts and Amendment Ordinance 2020

	<p>person employed by the churchwardens of a church in the parish of Ashfield;</p> <p>(c) a hall or halls;</p> <p>(d) a school or other place of assembly;</p> <p>(e) any purpose incidental to a purpose referred to in paragraph (a), (b), (c) or (d).</p>
<p>The land contained in folio identifier 1/208481 partly known as Alt Street, Ashfield, and partly known as 74 Bland Street, Ashfield and the site of St John the Baptist church, cemetery and rectory.</p>	<p>By clause 6(1) of the <i>Ashfield Trust Ordinance 2001</i>, the land may be used for one or more of the following purposes –</p> <p>(a) a church;</p> <p>(b) a residence for the minister, an assistant minister or any person employed by the churchwardens of a church in the parish of Ashfield;</p> <p>(c) a hall or halls;</p> <p>(d) a school or other place of assembly;</p> <p>any purpose incidental to a purpose referred to in paragraph (a), (b), (c) or (d).</p>
<p>ACPT Client Fund 0312</p>	<p>The funds are to be applied pursuant to Clause 4 of the Ashfield Ordinance 2001.</p>

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

D S MARR
Deputy Chair of Committee

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 19 October 2020.

D GLYNN
Secretary

I Assent to this Ordinance.

GN DAVIES
Archbishop of Sydney

19/10/2020