

Bondi and Waverley Land Sale and Variation of Trusts Ordinance 2019

No 32, 2019

Long Title

An Ordinance to permit the sale of certain land at Bondi and to provide for the application of the sale proceeds.

Preamble

Ocean St Bondi properties - land sale

A. Anglican Church Property Trust Diocese of Sydney (the “ACPT”) is the registered proprietor of the land contained in folio identifiers 1/1240714; 2/1240714; 3/1240714 and 1/304945 known as 34, 34A and 36 Ocean St North, Bondi and the site of a church building, formerly known as St Matthew’s Church Bondi, hall and rectory (the “Ocean St Land”).

B. The Ocean St Land is church trust property and forms part of the property of the ACPT – Bondi Trust which, under the *Bondi Trust Ordinance 2013*, is held for the purposes of the parish of Bondi.

C. By reason of circumstances which have arisen after the creation of the trusts on which the Ocean St Land is held, it is expedient that the Ocean St Land be sold and that the proceeds be applied in the manner set out in this Ordinance.

Waverley property - variation of trusts

D. The ACPT is the trustee of the property described in each cell in column 1 of the table in the Schedule (together, “the Waverley Property”).

E. The Waverley Property is held on the trusts described in the cells in column 2 of the Schedule.

F. By reason of circumstances which have arisen after the creation of the trusts on which the Waverley Property is held, it is inexpedient to carry out and observe those trusts.

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

1. Name

This Ordinance is the Bondi and Waverley Land Sale and Variation of Trusts Ordinance 2019.

2. Declarations in relation to ACPT - Bondi Trust

By reason of circumstances which have arisen after the creation of the trusts on which the property of the ACPT – Bondi Trust is held –

- (a) 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 Bondi, and
- (b) it is expedient that those trusts be varied in the manner set out in clause 2A and that the Ocean St Land be sold and the proceeds applied in the manner set out in clause 4.

2A. Variation of Trusts of ACPT – Bondi Trust

(1) Subject to subclause (2), the trusts of the property of the ACPT – Bondi Trust are varied so that it is held on the trusts set out in clause 5 of the Bondi and Waverley Trust Ordinance 2013 as part of the capital of the ACPT – Bondi and Waverley Trust under that Ordinance.

(2) The trusts of the property of the ACPT – Bondi Trust are further varied to permit the application under clause 4(2)(c).

3. Power of sale

The ACPT is authorised to sell the Ocean St Land for a total amount not less than [REDACTED] subject to such terms and conditions as it may think fit, within 3 years after the date of assent to this Ordinance and thereafter only with the consent of the Standing Committee given by resolution.

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4. Allocations from the ACPT – Bondi and Waverley Trust

(1) The ACPT is directed that it may make the following payments from that part of the capital of the ACPT – Bondi and Waverley Trust comprising any fee(s) paid to the ACPT in connection with the sale of the Ocean St Land (not including the proceeds of sale) –

- (a) the costs of and incidental to the preparation and lodgement of a development application in respect to the land known as 60 Wairoa Avenue, Bondi Beach and being the site of St Andrew's Church (namely, the land in Lot A of DP 406407 and Lot 34 in DP17000) ("the Wairoa Ave site"); and
- (b) capital works on the land known as 240 Birrell St Waverley and being the site of St Mary's Church (namely, the land in Lot 1 of DP813589) ("the Birrell St site"), including the management, design, demolition of existing buildings, and construction and renovation of the site.

(2) The ACPT is directed that it may make the following payments from that part of the capital of the ACPT – Bondi and Waverley Trust comprising the proceeds of sale of the Ocean St Land –

- (a) first, the costs and expenses of and incidental to this Ordinance and the sale of the Ocean St Land,
- (b) second, repayment of the Parish of Bondi and Waverley's existing loan from Sydney Anglican Loans,
- (c) third, \$1.1 million to NCNC Funds Limited (the "NCNC"), to be applied in and towards the costs of and incidental to constructing a new ministry centre agreed between the NCNC and the Parish Council of the Parish of Bondi and Waverley,
- (d) fourth, the costs of and incidental to implementation of Stage One of the masterplan as documented in the Church 2050 Strategic Masterplan of Bondi and Waverley Parish (the "Masterplan") received by the Standing Committee at its meeting on 29 July 2019; namely –
 - (i) preparation and lodgement of a development application in respect to the Wairoa Ave site,
 - (ii) redevelopment of the Wairoa Ave site, including the management, design, demolition of existing buildings, and construction and fitout of a new ministry centre and residences,
 - (iii) the provision of alternative staff accommodation pending final completion of the redevelopment of the Wairoa Ave site,
 - (iv) renting or hiring a temporary place of worship, or providing transport to allow the use of the Birrell St site or other facilities as a place of worship for the St Andrew's congregations, pending final completion of the redevelopment of the Wairoa Ave site,
 - (v) payment of the stipends, allowances and benefits paid or provided to the lay ministers and clergy of the Parish of Bondi and Waverley (other than the Rector), until 1 January 2025 or such later date as the Standing Committee approves from time to time by resolution, and
 - (vi) capital works on the Birrell St site, including the management, design, demolition of existing buildings and construction and renovation of the site up to a total of \$780,000, and
- (e) fifth, other payments approved by the Standing Committee to facilitate the implementation of Stage One of the Masterplan, and
- (f) the balance, to be held as part of the capital of the ACPT - Bondi and Waverley Trust under the *Bondi and Waverley Trust Ordinance 2013*.

5. Property Receipts Levy Exemption

Pursuant to clause 4(a)(ii) of the *Property Receipts Levy Ordinance 2018*, the Standing Committee declares that the Property Receipts Levy does not apply to all the income arising from –

- (a) a lease or licence granted under clause 9(1) of the *Bondi Trust Ordinance 2013*, or
- (b) a licence to use any property of the Parish of Bondi and Waverley granted under rule 3.11 in Schedule 2 of the *Parish Administration Ordinance 2008*,

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until the date 1 January 2025.

6. Declarations in relation to Waverley Property

By reason of circumstances which have arisen after the creation of the trusts on which the Waverley 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 Waverley, and it is expedient that those trusts be varied in the manner set out in clause 7.

7. Variation of Trusts of Waverley Property

The trusts of the Waverley Property are varied so that it is held on the trusts set out in clause 5 of the *Bondi and Waverley Trust Ordinance 2013* as part of the capital of the ACPT-Bondi and Waverley Trust under that Ordinance.

8. Amendment

(1) The *Bondi Trust Ordinance 2013* is amended as follows –

- (a) substitute the words “Bondi and Waverley” for the word “Bondi” wherever it appears, excluding when the word appears in –
 - (i) clause 7(1)(b) in the phrase “34 Ocean Street, Bondi”,
 - (ii) clause 9(b)(i) in the phrase “34 Ocean Street, Bondi”,
 - (iii) in the Schedule, wherever the word appears, and
- (b) delete the word “provisional” in clause 5, and
- (c) in clause 7(1)(c) insert the matter “except the payment of the stipends, allowances and benefits paid or provided to the minister” before the full stop.

(2) A reference to the “Parish of Bondi” in any other Ordinance (other than this Ordinance) is to be read or construed as, or taken to be, or deemed to be, or otherwise treated as, a reference to the “Parish of Bondi and Waverley”.

Schedule

Column 1	Column 2
The land contained in folio identifier 1/813589 known as 240 Birrell Street, Waverley and the site of St Mary's Anglican Church	By clause 3 of the St Marys Waverley Variation of Trusts and Mortgaging Ordinance 1982 the land is held upon trust for - <ul style="list-style-type: none">(a) church;(b) residence for a minister, assistant to the minister or person employed by the churchwardens of any church in the parish;(c) hall or halls;(d) school or other place of assembly; or partly for one or another or others of those purposes or any other purpose ancillary thereto in connection with the Anglican Church of Australia within the Diocese of Sydney for the sole benefit of the parish or any other ecclesiastical district of St Marys Waverley or any parish or ecclesiastical district into which it may be subsequently formed or form a part.

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ACPT Client Fund 641	The funds are held on trust for the Parish of Waverley although there are no written trusts.
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I Certify that the Ordinance as printed is in accordance with the Ordinance as reported.

R TONG
Chair of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 23 September 2019.

D GLYNN
Secretary

I Assent to this Ordinance.

G DAVIES
Archbishop of Sydney

23/09/2019