

Bondi and Waverley Trust Ordinance 2013

(Reprinted under the Interpretation Ordinance 1985.)

The Bondi Trust Ordinance 2013 as amended by the Bondi Trust Ordinance 2013 Amendment Ordinance 2018 and the Bondi and Waverley Land Sale and Variation of Trusts Ordinance 2019.

Table of Provisions

Clause	
1Name of Ordinance
2Declarations
3Definition of trust fund
4Name of the trust fund
5New trusts
6Capital of the trust fund
7Application of the income of the trust fund
8Review
9Powers – leasing and licensing of real property
10Commencement

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

Long Title

An Ordinance to vary the trusts on which certain property is held and to establish the ACPT – Bondi and Waverley Trust.

Preamble

A. Anglican Church Property Trust Diocese of Sydney (the “ACPT”) is the trustee of the property described in each of the cells in column 1 of the table in the Schedule (the “Existing Property”).

B. The property described in a cell in column 1 of the table in the Schedule is held on the trusts described in the corresponding cell in column 2 of the Schedule.

C. By reason of circumstances which have arisen after the creation of the trusts on which the Existing 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 of ordinance

This Ordinance is the Bondi and Waverley Trust Ordinance 2013.

2. Declarations

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

- (a) it is inexpedient that the Existing Property be held for the same or like purposes as the trusts on which the Existing Property is held, and
- (b) it is expedient that power be given to the ACPT to lease or licence from time to time any part of the real property forming part of the trust fund.

3. Definition of trust fund

In this Ordinance –

“trust fund” means –

- (a) the Existing Property, and
- (b) all real and personal property received or acquired by the ACPT from time to time as an addition to the trust fund.

4. Name of the trust fund

The trust fund is to be known as the ACPT – Bondi and Waverley Trust.

5. New trusts

Subject to the terms of this Ordinance, the trust fund is held upon trust for the purposes of the parish of Bondi and Waverley (the “Parish”).

6. Capital of the trust fund

(1) Any real property which forms part of the trust fund, 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 person employed by the wardens of a church in the Parish,
- (c) a hall or halls,
- (d) a school or other place of assembly,
- (e) any purpose incidental to a purpose referred to in paragraph (a), (b), (c) or (d).

(2) Any personal property which forms part of the capital of the trust fund may be applied by the ACPT for one or more of the following purposes –

- (a) the payment of all rates, taxes and charges incurred by the ACPT in relation to the trust fund, any property forming part of the trust fund or any transaction with property forming part of the trust fund, and
- (b) the costs of maintenance and repair of any property forming part of the trust fund required to meet minimum standards of maintenance and repair prescribed by Act, Regulation, Order or other law and applying to that property, and
- (c) to the extent such personal property arises from a payment made to the ACPT by the wardens of a church in the Parish for the purpose of enabling the ACPT to make a payment under any contract made or to be made by the ACPT as trustee of the trust fund with the approval of a majority of the parish council, for that purpose, and
- (d) for such purposes as the Standing Committee may direct by ordinance or resolution.

(3) Pending application under clause 6(2), any personal property which forms part of the capital of the trust fund is to be invested.

(4) If the wardens of a church in the Parish make a payment to the ACPT as an addition to the trust fund for the purpose of enabling the ACPT to make a payment under any contract made or to be made by the ACPT as trustee of the trust fund and –

- (a) the full amount of the payment made by the wardens is not required by the ACPT for that purpose, the ACPT may pay to the wardens an amount equal to the excess, or
- (b) the ACPT claims an input tax credit (as defined in the *New Tax System (Goods and Services) Act 1999*) in respect of the payment made under the contract, the ACPT may pay to the wardens an amount equal to the amount of the input tax credit (or proportionate part thereof where the payment made by the wardens is less than the payment made by the ACPT).

7. Application of the income of the trust fund

(1) The income of the trust fund (other than income referred to in clause 7(2)), after paying all rates, taxes and charges incurred by the ACPT in relation to the trust fund, any property forming part of the trust fund or any transaction with property forming part of the trust fund, is to be applied as follows –

- (a) if, from time to time, the personal property of the trust fund –
 - (i) is predominantly invested in the ACPT's Long Term Pooling Fund – no portion is to be capitalised, or

- (ii) is not predominantly invested in the ACPT's Long Term Pooling Fund – 30% is to be capitalised, and
 - (b) with effect from 31 December 2016, 15% of the income arising from leasing or licensing 34 Ocean Street Bondi for the purposes of a preschool or other similar purpose, is to be paid into the Sydney Diocesan Synod Fund, for the use and benefit of the Anglican Church of Australia in the Diocese of Sydney as determined from time to time by the Synod, and
 - (c) the balance is to be paid to the wardens of the church of the Parish or, if there is more than one church, the wardens of the principal church of the Parish, to be applied for such purposes of the Parish as the parish council may from time to time determine except the payment of the stipends, allowances and benefits paid or provided to the minister.
- (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 clauses 7(1)(b) and (c).

8. Review

- (1) The authority to apply income under clause 7(1)(c) earned after the review date terminates on the review date.
- (2) For the purposes of subclause (1) “review date” means the date which is 5 years after the date this Ordinance commences or such later date as the Standing Committee approves from time to time by resolution.
- (3) Any review of the application of income under clause 7(1)(c) must take into account the repair and maintenance of the building or other improvement situated on any real property which forms part of the trust fund in order to comply with the Heritage Act 1977.

9. Powers – leasing and licensing of real property

- (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 –
 - (i) \$90,000 per annum (including GST) in the case of leasing or licensing 34 Ocean Street Bondi for the purposes of a preschool or other similar purpose, and
 - (ii) \$50,000 per annum (including GST) in any other case,
 or such other amount as may be determined by the Standing Committee by resolution from time to time.
- (2) Nothing in this clause limits the powers of the ACPT under the Anglican Church Property Trust Ordinance 1965 or under any other ordinance.

10. Commencement

This Ordinance commences on the date of assent.

Schedule

Column 1	Column 2
The land in folio identifiers 34/170000 and A/406407 known as 60 Wairoa Avenue Bondi Beach and the site of St Andrew's Church.	By Clause 1 of the St Andrew's Bondi Beach Declaration of Trusts and Mortgage Ordinance 1967, 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 Andrew's Bondi Beach.

Column 1	Column 2
The land in folio identifiers 1/1011530, 1/304945 and 6/3/979732 known as 34 Ocean Street Bondi and the site of St Matthew's Church and a parish hall.	By clause 1 of the St Matthew's Bondi Vesting and Mortgage Ordinance 1956 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 Matthew's Bondi.
The land in folio identifier 7/1011902 known as 34 Ocean Street Bondi and the site of the rectory.	By clause 1 of the St Matthew's Bondi Mortgage and Sale Ordinance 1953 the land is vested in the Property Trust on the trusts set out in Deed Registered Book 1522 No. 346.
ACPT Client Fund 319	The fund comprises proceeds from the leasing of the hall at 34 Ocean Street Bondi and is held on trust upon trust "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 Matthew's Bondi".

Notes

1. Standing Committee passed the following resolutions at its meeting on 12 November 2018 –

"Standing Committee receives the attached letter from the parish of Bondi and Waverley and determines that the amount for the purposes of clause 9(1)(b)(i) of the *Bondi Trust Ordinance 2013* is \$300,000 per year".

"Standing Committee also approves the date 10 December 2023 as the "review date" for the purposes of clause 8(2) of the *Bondi and Waverley Trust Ordinance 2013*".

2. Standing Committee passed the following resolution at its meeting on 20 November 2023 –

"It was resolved that the Standing Committee –

- (a) note the attached letter from the Wardens of the Parish of Bondi and Waverley, including Parish information, Property income worksheet, and the *Bondi and Waverley Trust Ordinance 2013*, and
- (b) approve 20 November 2028 as a later date for the purposes of clause 8 (2) of the *Bondi and Waverley Trust Ordinance 2013*."

Table of Amendments

Title	Amended by Ordinance No 32, 2019.
Long Title	Amended by Ordinance No 44, 2018 and 32, 2019.
Clause 1	Amended by Ordinance No 44, 2018 and 32, 2019.
Clause 4	Amended by Ordinance No 44, 2018.
Clause 5	Amended by Ordinance No 44, 2018 and 32, 2019.
Clause 8	Amended by Ordinance No 44, 2018.

NAOMIE NGUYEN

Lawyer

30 November 2023

BRIONY BOUNDS

Diocesan Secretary