

South Creek Land Sale and Variation of Trusts Ordinance 2015

No 36, 2015

Long Title

An Ordinance to permit the sale of certain land at Rossmore, vary the trusts of that land, and to amend the South Creek Trust Ordinance 2003.

Preamble

A. Anglican Church Property Trust Diocese of Sydney (the "Property Trust") is the registered proprietor of the land in folio identifiers 1/117688, 2/117688, 3/117688 and 4/117688 known as 130 Rossmore Avenue, Rossmore and the disused Holy Innocent's Rossmore site (the "Land").

B. The Land is church trust property and forms part of the property of the ACPT – South Creek Trust which, under the South Creek Trust Ordinance 2003, is held for the purposes of the parish of South Creek (the "Parish").

C. 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 wholly for the purposes of the Parish, and it is expedient that the trusts be varied and that the whole or part of the Land be sold 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 South Creek Land Sale and Variation of Trusts Ordinance 2015.

2. Declarations

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 wholly for the purposes of the Parish, and it is expedient that the trusts be varied in the manner set out in clause 3 and that the whole or part of the Land be sold in the manner set out in clause 4.

3. Variation of Trusts

The trusts of the Land are varied to the extent necessary to permit the application set out in clause 5(1)(b).

4. Power of sale

(1) The Property Trust is authorised to sell the whole or any part of the Land by private treaty on such terms and conditions as it may think fit within 3 years after 29 February 2016 and thereafter only with the consent of the Standing Committee given by resolution.

(2) If the Mission Property Committee wishes to acquire the Land as an addition to the Mission Property Fund, it may do so by promoting an ordinance to the Standing Committee by 29 February 2016 which varies the trusts of the Land for this purpose upon payment to the Property Trust, as an addition to the ACPT – South Creek Trust, an amount of \$1.5 million.

5. Allocations from the ACPT – South Creek Trust

(1) Subject to clause 5(2), the Property Trust is directed to make the following payments from the capital of the ACPT – South Creek Trust –

- (a) first, the costs and expenses of and incidental to this Ordinance and the sale of the Land,
- (b) third, in and towards the costs and expenses of and incidental to the purchase of land and the construction of two or more residences thereon, or the purchase of two or more residences and the cost of any alterations considered necessary to render the residence(s) suitable for housing a minister, assistant minister or a person employed by the parish of South Creek,
- (c) fourth, an amount of up to \$150,000 in and towards the costs and expenses of and incidental to fitting out a building to be used as a parish church hub, and
- (d) the balance to be applied in accordance with clause 6 of the South Creek Trust Ordinance 2003.

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(2) No payment is to be made under clause 5(1) until the Land has been sold and the proceeds of sale paid to the Property Trust.

6. Capitalisation of income

Notwithstanding clause 7 of the South Creek Trust Ordinance 2003, all income arising from the investment of that part of the ACPT – South Creek Trust which comprises the proceeds of sale is to be capitalised.

7. Amendments

The South Creek Trust Ordinance 2003 is amended by –

- (a) inserting the matter “ACPT – “ before the word “South” in the Long Title,
- (b) inserting the matter “ACPT – “ before the word “South” in clause 4,
- (c) deleting the word “provisional” in clause 5,
- (d) substituting the existing clause 7(1)(a) with the following –
 - “(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”
- (e) deleting the matter “.” and inserting instead the matter “, except the payment of the stipends, allowances and benefits paid or provided to the minister.” in clause 7(1)(b),
- (f) deleting the word “residential” and the matter “for a weekly rental which does not exceed \$750 or such other amount as the Standing Committee determines by resolution” in clause 7(2) and inserting instead the words “or licence” after the word “lease”,
- (g) deleting the number “5” in clause 8(2) and inserting instead the number “21”, and
- (h) deleting the matter “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.” in clause 9(1) and inserting instead the following –
 - “ –
 - (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 \$50,000 per annum (including GST), or such other amount as may be determined by the Standing Committee by resolution from time to time.”

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 16 November 2015.

R WICKS
Secretary

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I Assent to this Ordinance.

GN DAVIES
Archbishop of Sydney
01/12/2015

Repealed by
Ordinance No 5, 2016