

Hunters Hill (Woolwich) Ordinance 1994

No 38, 1994

An Ordinance to authorise the subdivision and sale of certain land at Woolwich, the application of the proceeds of sale and the licensing of that part of the land to be retained.

Whereas

A. Arthur Kingston Moore, Edwin Clare, William Henry Day and Thomas Henry Neely, all of whom are now presumed to be deceased, are seised in fee simple of the land described in the first and are the registered proprietors of the land described in the second schedule.

B. The Property Trusty is the registered proprietor of the land described in the third schedule.

C. The land described in the first schedule is church trust property and is held upon trust to permit a church to be erected and maintained on it called "All Saints' Mission Church" but now styled "St John's Church".

D. The land described in the second schedule is church trust property held on trust for the purposes of the parish of Hunters Hill ("Parish") although there are no written trusts.

E. The land described in the third schedule is church trust property and by the Hunters Hill (Boundaries) Ordinance 1991 is held upon trust for the purposes of the Anglican Church in Australia in the Diocese of Sydney for the Parish.

F. It is proposed to vest the land described in the first and second schedules in the Property Trust.

G. By reason of circumstances which have arisen after the creation of the trusts on which the land described in the first, second and third schedules (collectively the "Land") are respectively held, it is expedient that the Land be subdivided and part thereof sold.

H. It is proposed to give authority for the Property Trust to permit Hunters Hill Theatre Inc. ("HHT") to use that part of the Land which is not sold for the production, staging and performance of theatrical works.

I. The Property Trust holds certain insurance moneys arising from the destruction of a hall (the "Hall") formerly erected on the Land.

J. By reason of circumstances which have arisen after the creation of the trusts on which the insurance moneys are held it is inexpedient to carry out and observe the same and it is inexpedient to deal with or apply such insurance moneys for the same or like purposes as the trusts on which they are presently held.

Now the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the Synod Ordains Declares Directs and Rules as follows -

Citation

1. This ordinance may be cited as the "Hunters Hill (Woolwich) Ordinance 1994".

Vesting of Land

2. Consent is given to the land described in the first and second schedules being vested in the Property Trust.

Declaration of Inexpediency

3. (1) 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 and observe those trusts and it is expedient that the Land be subdivided and part of the Land sold and that the proceeds of sale be applied as provided herein.

(2) By reason of circumstances which have arisen after the creation of the trusts on which the insurance moneys referred to in paragraph I. of the preamble are held, it is inexpedient to deal with or apply such insurance moneys for the same or like purposes as those trusts.

Authority to Sell

4. The Property Trust is empowered to subdivide the Land and to sell part of the Land, not being the lot (the "Church Lot") on which the Church is erected, by public auction or private contract at such time and at such price upon and subject to such terms, conditions covenants and reservations as it may think fit provided that no such sale may be effected after the 3rd anniversary of the date on which assent is given to this ordinance without the consent of the Standing Committee given by resolution.

Application of Proceeds

5. The proceeds arising from the sale of the Land shall be applied as follows -

- (a) in payment of all outgoing to which the Land may be subject and the costs of and incidental to this ordinance and to the subdivision of the Land and sale of part thereof;
- (b) \$50,000 shall be paid to the Archbishop of Sydney's "Vision 2001" program through the Diocesan Income and Expenditure Ordinance;
- (c) an amount not exceeding \$550,000 shall be applied towards the costs of purchasing a residence suitable for an assistant minister licensed to the Parish or person employed by the churchwardens of any church in the Parish engaged in ministry in the Parish (such costs to include necessary minor repairs, maintenance, furnishing and fitting out of the residence); and
- (d) an amount or amounts not exceeding \$30,000 shall be applied toward the cost or costs of essential repairs to the building known as St John's Church Woolwich.

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6. The balance remaining after the applications referred to in clause 5 shall be invested by the Property Trust and the income applied as follows -

- (a) 30% of the income is to be capitalised;
- (b) 5% of the income is to be applied through the Diocesan Income and Expenditure Ordinance towards the maintenance of historical buildings in the Diocese; and
- (c) the balance of the income is to be paid to the churchwardens ("Churchwardens") of All Saints' Church Hunters Hill to be applied by them towards the maintenance and repair of any building constructed on land which may, from time to time, be held on trust for the purposes of the Parish.

Granting of Licence

7. The Property Trust is authorised to enter into a non-exclusive licence in respect of the Church Lot with HHT for a period which does not exceed 20 years or periods which in aggregate do not exceed 20 years. The terms of such licence shall be those agreed to by the Property Trust upon the request of the parish council of the Parish after consultation between the Property Trust and the parish council provided that -

- (a) any lease or licence there is adequate reservation of the Church Lot for parish use; and
- (b) the Property Trust has a right of veto over any theatrical production which may bring the Anglican Church in disrepute.

8. The licence fee payable under the licence authorised by clause 7 shall be paid to the Churchwardens for property building maintenance and repairs to any parish building. The licensee shall be authorised to pay all such fees and other moneys under the licence to the Churchwardens whose receipt shall be sufficient discharge for payment. The costs, if any, incurred by the Parish or the Property Trust in connection with clause 7 shall be met from the licence fee.

Insurance Money

9. The insurance proceeds paid to the Property Trust due to the destruction of the Hall (and any income therefrom as at the date of assent to this ordinance) shall be added to the balance of the proceeds of sale invested by the Property Trust under clause 6 and the income applied in the manner specified in clause 6.

Review

10. (1) On the Review Date, the authority to apply any income under clause 6 terminates and, as soon as possible thereafter, the churchwardens of the principal church of the Parish must promote an ordinance providing for the application of any amount invested by the Property Trust under clause 6, any capitalised income and any income earned thereon after the Review Date.

- (2) The Review Date is the 5th anniversary of the date of assent to this ordinance.

First Schedule

The land described in Conveyance Registered Number 714 Book 655 being all that piece or parcel of land situated at Woolwich and being Lot 3 of Section 2 of Clarkes Estate Hunters Hill.

Second Schedule

The land comprised in Certificate of Title Volume 1176 Folio 69 being Lot 31 in DP 3310.

Third Schedule

The land comprised in Certificate of Title Folio Identifier 1/812443 being Lot 1 in DP 812443.

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

R.Tong
Deputy Chairman of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 29 August 1994.

W.G.S. Gotley
Secretary

I Assent to this Ordinance.

R.H. Goodhew
Archbishop of Sydney
13/9/1994