

Enfield Land Sale and Subdivision Ordinance 2003

No 63 , 2003

Long Title

An Ordinance to authorise the sale and subdivision of certain land held upon trust for the parish of Enfield and for certain other matters incidental thereto.

Preamble

A. Anglican Church Property Trust Diocese of Sydney (the "Property Trust") is the registered proprietor of the land described in each of the cells in column 1 of the table in Schedule 1 (the "Sale Land") and of the land described in the cell in column 1 of the table in Schedule 2 (the "Subdivision Land").

B. The land described in a cell in column 1 of the tables in Schedules 1 and 2 is church trust property held on the trusts described in the corresponding cell in column 2 of the tables in Schedules 1 and 2.

C. By reason of circumstances which have arisen after the creation of the trusts on which the Sale Land and Subdivision Land (together "the Land") are held,

- (i) it is inexpedient to carry out or observe those trusts or to deal with or apply the Land for the same or like purposes as those trusts or to apply the proceeds arising from the sale of the Sale Land wholly for the use or benefit of the parish of Enfield (the "Parish"), and
- (ii) it is expedient to vary those trusts in the manner set out in this Ordinance, and
- (iii) it is expedient to sell the Sale Land and to apply the proceeds of sale in the manner set out in this Ordinance and to subdivide the Subdivision Land.

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

1. Name

This Ordinance is the Enfield Land Sale and Subdivision Ordinance 2003.

2. Declarations

By reason of circumstances which have arisen after the creation of the trusts on which the Land is held,

- (a) it is inexpedient to carry out or observe those trusts or to deal with or apply the Land for the same or like purposes as those trusts or to apply the proceeds arising from the sale of the Sale Land wholly for the use or benefit of the Parish, and
- (b) it is expedient to vary those trusts in the manner set out in clause 3 of this Ordinance, and
- (c) it is expedient to sell the Sale Land and to apply the proceeds of sale in the manner set out in clause 5 of this Ordinance and to subdivide the Subdivision Land.

3. Variation of trusts

- (1) Subject to clause 3(2), the Land is held upon trust for the purposes of the Parish.
- (2) The trusts of the Sale Land are further varied to permit the payments under clause 5(1)(a).

4. Power of sale and subdivision

(1) The Property Trust is authorised to sell the Sale Land in one or more parcels by private treaty or, in the case of the part of the Sale Land comprised in folio identifier 77/1978, by public auction within 3 years after the date of assent to this Ordinance and thereafter only with the consent of the Standing Committee given by resolution.

(2) The authority under clause 4(1) to sell the part of the Sale Land comprised in auto consol 3586-89 arises only after the licence or sentence of consecration of the church situated on that land has been revoked.

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(3) The Property Trust is authorised to subdivide the Subdivision Land into 2 or more parcels in whatever manner the Property Trust, at the written request of the parish council of the Parish, approves.

5. Application of proceeds of sale

(1) The proceeds from the sale of the Sale Land (and the income earned on the proceeds capitalised under clause 5(3)(a)), after payment of the costs and expenses of and incidental to this Ordinance, the sale of the Sale Land and the subdivision of the Subdivision Land (including any goods and services tax as defined in *A New Tax System (Goods and Services Tax) Act 1999* payable in connection with the sale and subdivision), (the "Net Proceeds") are to be applied as follows –

- (a) first, in payment of the following amounts –
 - (i) the greater of \$20,000 and 1.5% of the Net Proceeds to be paid as an addition to the fund held by the Property Trust known as the CPT Heritage Act Building Fund, and
 - (ii) the greater of \$40,000 and 3% of the Net Proceeds to be paid to the South Sydney Regional Council for the purposes of that Council, and
 - (iii) the greater of \$20,000 and 1.5% of the Net Proceeds to be paid as an addition to the fund held by the Property Trust known as the Indigenous Peoples' Ministry Trust Fund, and
 - (iv) the greater of \$50,000 and 4% of the Net Proceeds to be paid as an addition to the fund held by the Property Trust known as the Mission Property Fund, and
- (b) second, an amount of up to \$310,000 towards the costs of and incidental to either or both of the following –
 - (i) the building and fitting out of a residence for the minister, an assistant minister or a person employed by the churchwardens of a church in the Parish on land held on trust for the Parish, and
 - (ii) any renovation or extension of the existing rectory of the Parish situated at 53 Coronation Parade, South Strathfield in preparation for or consequent to the subdivision of the Subdivision Land, and
- (c) third, an amount of up to \$300,000 towards the maintenance and repair of any one or more of the following types of heritage property held on trust for the Parish –
 - (i) property listed on the State Heritage Register,
 - (ii) property subject to National Trust classification,
 - (iii) property identified in a local environmental plan as heritage property, and
- (d) fourth, an amount of up to \$400,000 towards the cost of and incidental to extending, renovating and fitting out the parish hall at Enfield, and
- (e) the balance (if any) to be applied by the Property Trust for such capital purposes of the Parish as determined from time to time by resolution of the parish council of the Parish.

(2) For the avoidance of doubt, if the Sale Land is sold or to be sold in more than one parcel, the Property Trust may, after payment of the costs and expenses of and incidental to this Ordinance, the sale of the first parcel and the subdivision of the Subdivision Land, commence the application of the then available portion of Net Proceeds under clause 5(1).

(3) Pending the application of the proceeds from the sale of the Sale Land, the proceeds (or the balance remaining from time to time) are to be invested and the income applied as follows –

- (a) 20% to be capitalised, and
- (b) 80% to be paid to the churchwardens of St Thomas' Church, Enfield for the general purposes of the Parish other than payment of the minister's stipend and allowances.

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Schedule 1

Column 1	Column 2
Folio Identifier 77/1978 known as 13 Waratah Street, Croydon Park.	The land is held on trust for the parish of Enfield although there are no written trusts.
Auto Consol 3586-89 known as the site of St Nicholas' church and hall, Daisy Street, Croydon Park.	By Declaration of Trust dated 21 July 1924 the land is held upon trust to permit the same to be used for a church, parsonage, 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 Enfield.

Schedule 2

Column 1	Column 2
Folio Identifier 4/215165 known as 53 Coronation Parade, South Strathfield.	The preamble to the St Thomas Enfield Land Sale and Mortgaging Ordinance 1962 refers to a Declaration of Trust dated 16 April 1896 which states that the land is held upon trust to permit and allow the same to be held used and enjoyed free of rent as a parsonage or residence by the Incumbent or Senior Minister for the time being of and officiating at the Church of England at Enfield known as St Thomas.

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

PETER KELL
Chairman of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 8 December 2003.

MA PAYNE
Secretary

I Assent to this Ordinance.

PETER F JENSEN
Archbishop of Sydney
9 /12 /2003