

# South Head Variation of Trusts and Amendment Ordinance 2021

(Reprinted under the Interpretation Ordinance 1985.)

The South Head Variation of Trusts and Amendment Ordinance 2021 as amended by the South Head Variation of Trusts and Amendment Ordinance 2021 Amendment Ordinance 2023.

## Table of Provisions

| Clause    |   |
|-----------|---|
| 1         | ..... Name of ordinance                             |
| 2         | ..... Declarations                                  |
| 3         | ..... Amendment                                     |
| 4         | ..... Variations of trusts                          |
| 5         | ..... Applications from the ACPT – South Head Trust |
| Schedules |   |

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## Long Title

An Ordinance to vary the trusts of which certain property is held to consolidate the property in the ACPT – South Head Trust and for matters incidental thereto.

## Preamble

- A. The Anglican Church Property Trust (the “ACPT”) is the trustee of the property described in the First Schedule (together, the “Vaucluse and Rose Bay Property”).
- B. The Vaucluse and Rose Bay Property is held on trust for the purposes of the former Parish of Vaucluse and Rose Bay under the trusts described in the First Schedule.
- C. The ACPT is the trustee of the property described in the Second Schedule (together “the Watsons Bay Property”).
- D. The Watsons Bay Property is, by clause 5 of the *Watsons Bay Trust Ordinance 2012*, held on trust for the purposes of the former Parish of Watsons Bay.
- E. The Parish of Watsons Bay and the Parish of Vaucluse and Rose Bay have been amalgamated under the *Parishes Ordinance 1979* to form the Parish of South Head.
- F. By reason of circumstances which have arisen after the creation of the trusts on which the Vaucluse and Rose Bay Property and the Watsons Bay Property is held, it is inexpedient to carry out and observe those trusts and it is expedient to vary those trusts in the manner set out in this Ordinance.

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

### 1. Name of ordinance

This Ordinance is the South Head Variation of Trusts and Amendment Ordinance 2021.

### 2. Declarations

By reason of circumstances which have arisen after the creation of the trusts on which –

- (a) the Vaucluse and Rose Bay 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 Vaucluse and Rose Bay, and
- (b) the Watsons Bay 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 Watsons Bay,

and it is expedient that those trusts be varied in the manner set out in clause 4.

### 3. Amendment

The *Watsons Bay Trust Ordinance 2012* is amended as follows –

- (a) substitute the words “South Head” for the words “Watsons Bay” wherever they appear excluding –
  - (i) clause 6(3)(b) in the phrase “St Peter’s Watsons Bay, Old South Head Road, Watsons Bay”, and
  - (ii) when the words appear in the Schedule.
- (b) delete the full stop at the end of clause 6(2)(d) and insert instead “, provided that any such purposes directed by resolution must be within the purposes of the Parish in accordance with clause 5.”,
- (c) delete the number “10” in clause 8(2) and insert instead the number “18”,
- (d) delete all the matter in clause 9(1)(b) and insert instead the following –
  - “(b) the rental payable by the lessee or licensee is not more than any limit that is determined by the Standing Committee by resolution from time to time for the purposes of this clause.”,
- (e) delete the matter “Anglican Church Property Trust Ordinance 1965” in clause 9(2) and insert instead the matter “*Anglican Church Property Trust Diocese of Sydney Ordinance 1965*”.

#### **4. Variation of trusts**

- (1) The trusts of the Vacluse and Rose Bay Property and the Watsons Bay Property are varied so that it is held on the trusts set out in clause 5 of the *South Head Trust Ordinance 2012* (as amended by this Ordinance) as part of the capital of the ACPT – South Head Trust.
- (2) The trusts of the ACPT – South Head Trust are further varied to the extent necessary to permit the payment set out in clause 5(1).

#### **5. Applications from the ACPT – South Head Trust**

- (1) The ACPT is directed to pay an amount of \$900,000 to NCNC Fund Limited (New Churches for New Communities) from that part of the capital of the ACPT – South Head Trust comprised in the Diocesan Cash Investment Fund on the date of the commencement of this Ordinance for application towards the costs and expenses of and incidental to construction of the new ministry centre at Leppington.
- (2) Subject to the payment of the amount in clause 5(1) being made, the Standing Committee directs under clause 6(2)(d) of the *South Head Trust Ordinance 2012* (as amended by this Ordinance) that the capital of the trust fund comprised in the Diocesan Cash Investment Fund on the date of the commencement of this Ordinance may be applied by the ACPT as follows –
  - (a) first, the costs and expenses of and incidental to this ordinance,
  - (b) the balance, up to an amount of \$835,000, is to be applied to the costs of and incidental to –
    - (i) repairing the stonework and roof of St Peter’s Church at Watson’s Bay,
    - (ii) upgrading the access to and lighting of the Watsons Bay columbarium, and
    - (iii) the repair and upgrade of the curate’s cottage at 331a Old South Head Road, Watsons Bay.

#### **First Schedule**

| <b>Column 1</b>  | <b>Column 2</b>  |
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| The land contained in folio identifier 4/SP9677 known as 4/20 The Avenue, Rose Bay 2029 and the site of a residence. | By clause 3 of the Vacluse and Rose Bay Variation of Trusts Ordinance 1996, the property is held upon trust to be applied for such purpose or purposes of the parish of Vacluse and Rose Bay as are approved by the Standing Committee by resolution at the request of a majority of the parish council of the parish of Vacluse and Rose Bay. |
| The land contained in folio identifier 1/122028 known as 2 New South Head Road, Vacluse and the site of a Rectory.   | By clause 2 of the St Michaels Vacluse Variation of Trusts and Mortgaging Ordinance 1979, the land is held upon trust for a – <ul style="list-style-type: none"> <li>(a) church;</li> <li>(b) residence for a minister, assistant to the minister or person employed by the churchwardens of any church in the parish;</li> </ul>              |

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|   | (c) hall or halls;<br>(d) school or other place of assembly;<br>or partly for one or another of such purposes in connection with the Church of England in Australia within the Diocese of Sydney for the sole benefit of the parish of St Michael Vaucluse or any parish or ecclesiastical district into which it may subsequently be formed or form a part. |
| The land contained in folio identifier 74/1022956 known as Gilliver Avenue, Vaucluse and the site of St Michael's Church and Parish Hall. | By conveyance being registered Book 149 No 452 the land is held upon trust to permit or suffer the land to be used the same as the site and for the purpose of a church of the Church of England and a parsonage and school house in connection therewith and other purposes incidental thereto.   |
| ACPT Client Fund 0702   | The fund is held on trust for the Parish of Vaucluse and Rose Bay although there are no written trusts.  |
| ACPT Client Fund 0698   | By the Rose Bay Sale Ordinance 1991 the fund is held for the maintenance, repair, restoration and alteration of St Michael's Anglican Church building, Vaucluse.   |

#### **Second Schedule**

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| The land contained in folio identifier 2/622595 known as the site of St Peter's Watsons Bay, hall and rectory, Old South Head Road, Watsons Bay. |
| The land contained in folio identifier 1/622595 known as 331A Old South Head Road, Watsons Bay and the site of a residence.                      |
| Folio identifiers 2/871485 and 3/871485 known as the site of the Wentworth Mausoleum, Chapel Road, Vaucluse.                                     |
| ACPT Client Fund 0786  |
| ACPT Client Fund 787   |

#### **Note**

1. The original form of this ordinance commenced on 15 February 2021.

#### **Table of Amendments**

Clause 5 Amended by Ordinance No 23, 2023.

NAOMIE NGUYEN

**Lawyer**

20 July 2023

BRIONY BOUNDS

**Diocesan Secretary**