

# Wanganui Church Acre Act 1910

Local Act 1910 No 6  
Date of assent 14 October 1910

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**An Act declaring certain Lands in the Town of Wanganui to be vested in the Wellington Diocesan Board of Trustees, and to make other Provisions relative to the said Lands.**

### Preamble

WHEREAS by Crown grant dated the fourteenth day of February, one thousand eight hundred and sixty, all that parcel of land described in the Schedule hereto was granted to the Right Reverend Father in God, George Augustus, Bishop of New Zealand, upon trust that the same should be consecrated as a site for a church and burial-ground according to the rites of the United Church of England

and Ireland; and the Bishop of New Zealand, in pursuance of the powers vested in him in that behalf by the Bishop of New Zealand Trusts Act 1858, did convey the land so granted to him to trustees appointed by the General Synod of the religious body then known as “The Branch of the United Church of England and Ireland in New Zealand”, but now known as “The Church of the Province of New Zealand, commonly called **The Church of England**”: And whereas the successors in title as trustees of the said lands are now incorporated under the provisions of the Religious, Charitable, and Educational Trust Boards Incorporation Act 1884, and named **The Wellington Diocesan Board of Trustees**: And whereas the trusts of the said land as regards a burying-ground have long since ceased to be capable of being carried out, by reason of a Provincial Ordinance forbidding the burying of the dead in the said land as from the seventh day of March, one thousand eight hundred and fifty-five, and the area of the said land is larger than is required only for the site of a church, and the General Synod is desirous that the said Board should have powers whereby the land might be more effectually utilized for the benefit of the Church in the Borough of Wanganui and the district surrounding the same:

**BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—**

**1 Short Title**

This Act may be cited as the Wanganui Church Acre Act 1910.

**2 Interpretation**

In this Act, if not inconsistent with the context,—

**The Board** means and includes **The Wellington Diocesan Board of Trustees** incorporated under the Religious, Charitable, and Educational Trust Boards Incorporation Act 1884, and any other Board or body of trustees in which the said land may hereafter become vested by direction of the General Synod, or any Board or Commission duly appointed by the General Synod to Act in the appointment of trustees

**The Diocesan Synod** means and includes the Synod of the Diocese of Wellington of the Church of the Province of New Zealand, commonly called **The Church of England**

**The General Synod** means and includes the General Synod of the Church of the Province of New Zealand, commonly called **The Church of England**.

### **3 Declaring trusts of land**

The lands described in the Schedule hereto (throughout this Act referred to as the said allotment) are hereby declared to be now vested in the Board upon trust for the General Synod for the use and benefit of the Parish of Wanganui and the Parochial Districts of Wanganui and Aramoho, and so much of the Parochial District of Waverley-Waitotara as was included in the original Parish of Wanganui, or, in the case of the subdivision or alteration of boundaries, for the use and benefit of such parishes or parochial districts as shall within their boundaries include the whole or portions of the area now comprised within the Parish of Wanganui and the Parochial Districts of Wanganui and Aramoho, and such part as aforesaid of the Parochial District of Waverley-Waitotara, or any of them, and subject within the limits of such trusts to the direction and control from time to time of the Diocesan Synod, or of the General Synod on appeal of the Diocesan Synod, as provided by the Constitution of the said Church.

Section 3 was amended, as from 18 August 1917, by section 3 Wanganui Church Acre Amendment 1917 (1917 No 1(P)), by substituting the word “and” for the word “or”.

### **4 Power of Board to lease part of the land**

Notwithstanding anything hereinbefore contained, it shall be lawful for the Board to lease the said allotment or any part or parts thereof,—

- (a) For any term not exceeding sixty years without right of renewal:
- (b) For any term less than sixty years—
  - (i) With a provision that the lessee, his executors, administrators, or assigns, may at any time prior to the expiration of the term have a new lease for

a further term for the same period as, or any less or greater period than, the original term, and containing the same covenants and provisions (including this present provision), at a rent to be fixed by valuation of the land only, without regarding the value of any buildings or improvements thereon:

Provided that such original term, together with all renewals thereof, do not exceed in all sixty years:

or

- (ii) With a provision that prior to the expiration of the term a new lease for a further term of the same period as, or any less or greater period than, the original term, and containing the same covenants and provisions (including this present provision), shall be put up to public auction at the upset price of the annual value of the land only (to be fixed by valuation without regarding the value of any buildings or improvements thereon), subject to a condition that in the event of any other person than the lessee, his executors, administrators, or assigns, becoming entitled to the new lease, then such person shall before being let into possession pay to the lessee, his executors, administrators, or assigns, the value of such buildings and improvements (to be fixed by valuation), whether erected or made by the lessee, his executors, administrators, or assigns, or any former lessee or tenant of all or any part of the lands included in the lease or:

Provided, however, that the term of the original lease, together with the total terms of all such new leases, shall not exceed in all sixty years:

- (iii) With a provision that the lessee, his executors, administrators, or assigns, may at any time prior to the expiration of the said term, at his or their option, either have a new lease as provided by subparagraph (i) hereof, or have a new lease

put up to public auction under subparagraph (ii) hereof, with its proviso.

*[Repealed]*

Section 4 was amended, as from 18 August 1917, by section 4 Wanganui Church Acre Amendment Act 1917 (1917 No 1(P)), by substituting the words “to lease the said allotment” for the words “(without any further or other consent than is required by the proviso to this section) to lease part of the said allotment—namely sections 168 and 169, containing together two roods, be the same a little more or less,”.

Paragraph (b)(ii) was amended, as from 18 August 1917, by section 4 Wanganui Church Acre Amendment Act 1917 (1917 No 1(P)), by inserting the word “or”.

The third proviso to section 4 was repealed, as from 18 August 1917, by section 4 Wanganui Church Acre Amendment Act 1917 (1917 No 1(P)).

**5 As to valuations**

Every valuation under paragraph (b) of the last preceding section hereof shall be made by three indifferent persons, one to be appointed by the Board, one by the lessee, his executors, administrators, or assigns, and the third by such two appointed persons, before entering upon the valuation; and the lease may contain any subsidiary matter to give effect to the provisions of the said paragraph.

**6 Conditions of leasing**

The powers of leasing given by section four of this Act shall be subject to the conditions and exceptions following:—

- (a) Every lease shall take effect in possession, or within six months from its date.
- (b) The rent reserved shall be a rack-rent, without fine, premium, or foregift, but need not be uniform for the whole term.
- (c) The amount paid for valuation of buildings and improvements by an incoming tenant to either the outgoing tenant or the Board shall not be deemed to be a premium.
- (d) Every such lease may contain such covenants, conditions, and provisions, not being contrary to this Act, as the Board thinks fit.

Paragraph (c) was amended, as from 18 August 1917, By section 5 Wanganui Church Acre Amendment Act 1917 (1917 No 1 (P)), by substituting the word “Board” for the words “Wellington Diocesan Board of Trustees”.

**7 Power of Board to accept surrenders**

The Board may, on such terms and conditions as it thinks fit, accept a surrender of any lease granted under section four of this Act, whether with respect to the whole or any part of the land comprised in the lease, and may again, subject to the provisions of this Act, lease the land comprised in the surrendered lease.

**8 Power of Board to subdivide and grant rights of way**

For the purpose of more effectively leasing the said lands under section four it shall be lawful for the Board to subdivide the same, and for the purpose of such subdivision, but subject to the provisions of any Act for the time being in force relating to Municipal Corporations, to grant private rights of way thereon for the term of any lease and any new leases granted in pursuance of paragraph (b) of section four of this Act.

**9 Power to disinter and rebury bodies**

- (1) The Board is hereby expressly authorized and empowered and required, without any further authority or license than is by this Act conferred, and notwithstanding the provisions of the Wanganui Cemetery Act 1862, the Cemeteries Act 1908, or any other Act or law relating to disinterments, to carefully dig over the said allotment, and disinter and remove therefrom any bodies buried therein before granting any lease of the same, or any part thereof not heretofore leased, or before erecting any buildings over the graves in which the same are buried, and to rebury all such bodies in consecrated ground elsewhere, or in a public cemetery.
- (2) No intending lessee shall be concerned to inquire whether this section has been complied with.

Subsection (1) was amended, as from 18 August 1917, by section 6 Wanganui Church Acre Amendment Act 1917 (1917 No 1(P)), by substituting the words “the said allotment, and the disinter . . . all such bodies in consecrated ground elsewhere, or in a public cemetery.” for the words “that portion of the said allotment which is authorized to be leased under section four, and disinter and remove therefrom any bodies buried therein, before granting any lease of the same, and to disinter and remove therefrom any bodies buried in the remainder of the said allotment before erecting any buildings over the graves in which the same are buried, and to rebury all such bodies in such portion of the said

allotment as shall not be leased or required for erection of buildings, or in consecrated ground elsewhere, or in a public cemetery.”

**10 Application of rents**

*[Repealed]*

Section 10 was repealed, as from 18 August 1917, by section 8 Wanganui Church Acre Amendment Act 1917 (1917 No 1(P)).

**11 Power to borrow on security of rents**

For the purposes mentioned in the subsections of the last preceding section, or for any such purpose, it shall be lawful for the Board from time to time to borrow, on the security of the rents to accrue from any portion or portions of the said allotment leased under section four of this Act, such sums as may be required for any of such purposes, by means of a mortgage or mortgages of the said rents or any part or parts thereof; such mortgage or mortgages to be in such form and to contain all such covenants, agreements, powers of attorney to collect rents, and other powers incidental to the security as may be agreed upon between the Board and the mortgagee or the mortgagees.

**12 Protection of mortgagees**

No intending mortgagee shall be concerned to inquire whether the money proposed to be raised is required for the purposes aforesaid or any of them, or how much money is required to be raised, or to see the application of the money when raised, or to inquire whether any conditions or provisions of this Act as to removal of bodies or otherwise have been complied with, or into the propriety in any respect of the transaction; and the receipt in writing of the Board for the money advanced shall be an effectual discharge therefor to the person advancing the same.

**13 Power of Board to indemnify itself for costs**

The Board shall be entitled to indemnify itself out of the moneys received by virtue of the exercise of all or any of the powers hereby granted against all costs and expenses which

may be incurred in administering the trusts and exercising the powers vested in them, and also the costs of this Act.

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### **Schedule**

ALL that piece or parcel of land in the Province of Wellington, containing by admeasurement 1 acre, more or less, being the sections numbered 166, 167, 168, and 169 upon the plan of the said Town of Wanganui: bounded towards the north by a line parallel to the Victoria Avenue, 400 links; towards the east by section numbered 170, 250 links; towards the south by Victoria Avenue aforesaid, 400 links; and towards the west by section numbered 165, 250 links.