

# Broadway Mortgaging and Variation of Trusts Ordinance 2001

No 7, 2001

## Long Title

An Ordinance to authorise the mortgaging of land at 35 Arundel Street Forest Lodge, the application of the proceeds and the variation of the mortgage from time to time and to vary the trusts on which the land at 37 Arundel Street Forest Lodge is held.

## Preamble

A. Anglican Church Property Trust Diocese of Sydney (the "Property Trust") is the registered proprietor of Lot 9 Deposited Plan 239867 known as 35 Arundel Street Forest Lodge ("Lot 9") and Lot 10 Deposited Plan 239867 known as 37 Arundel Street Forest Lodge ("Lot 10").

B. Lot 9 and Lot 10 are church trust property held for the Anglican Church of Australia in the Parish of St Barnabas Broadway ("the Parish") pursuant to the Bishopthorpe Estate and St Barnabas' Sydney Variation Declaration of Trusts and Vesting Ordinance 1972 upon trust to be used for a church, parsonage, parish hall or counselling centre or partly for one or partly for another or other of such purposes in connection with the Church of England in Australia in the Parish of St Barnabas Sydney and for such other purpose or purposes in connection with the Church as may be approved from time to time by the parish council of the Parish and by the Archbishop.

C. The Parish intends to borrow on the security of Lot 9 -

- (a) \$275,000 to carry out repairs to the rectory situated on Lot 9; and
- (b) \$800,000 to erect 2 dwellings for assistant ministers at the rear of Lot 10 and to carry out repairs to the existing assistant minister's house at the front of Lot 10.

D. The Parish may wish to vary any mortgage or further mortgage of Lot 9 for certain purposes.

F. By reason of circumstances which have arisen after the creation of the trusts on which Lot 9 and Lot 10 are held it is expedient that the trusts be varied and that Lot 9 be mortgaged.

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

## 1. Name

This Ordinance is the Broadway Mortgaging and Variation of Trusts Ordinance 2001.

## 2. Declarations and Variation of Trusts

(1) By reason of circumstances which have arisen after the creation of the trusts on which Lot 9 and Lot 10 are held it is inexpedient to carry out or observe those trusts and -

- (a) it is expedient that the trusts on which Lot 9 and Lot 10 are held be varied so that such lots are henceforth held on trusts specified in subclause (2); and
- (b) it is expedient that Lot 9 be mortgaged and the proceeds applied in the manner set out in this ordinance.

(2) Lot 9 and Lot 10 are to be held upon trust to permit it to be used for a church, parsonage, dwelling or dwellings for one or more assistant ministers, parish hall or counselling centre or partly for one or partly for another or other of such purposes in connection with the Anglican Church of Australia in the Parish.

## 3. Power to Mortgage

(1) The Property Trust is authorised and empowered to mortgage Lot 9 by one or more mortgages for any one or more of the following purposes -

- (a) borrowing a sum not exceeding \$275,000 to carry out repairs to the rectory situated on Lot 9;
- (b) borrowing a sum not exceeding \$800,000 to erect 2 dwellings for assistant ministers at the rear of Lot 10 and to carry out repairs to the existing assistant minister's house at the front of Lot 10;
- (c) borrowing a sum to refinance in whole or in part any prior borrowing for the purposes referred to in paragraphs (a) and (b) where the amount being borrowed does not exceed the amount being refinanced;
- (d) in any other case borrowing such sum as the Standing Committee may at any time approve by resolution.

(2) The Property Trust is authorised and empowered to vary any mortgage for any of the following purposes -

- (a) varying the interest rate;
- (b) varying the repayment date;
- (c) reducing the principal;
- (d) increasing the principal by such sum as the Standing Committee may approve by resolution.

## 4. Application of Proceeds

The moneys borrowed on any mortgage may be applied by the Property Trust for any one or more of the following purposes -

- (a) in payment of the costs and expenses of and incidental to this Ordinance and of any mortgage granted pursuant to this Ordinance;
- (b) in repaying any loans taken out by the Parish for the purpose of carrying out repairs to the rectory situated on Lot 9;
- (c) in carrying out repairs to the rectory situated on Lot 9;
- (d) in erecting 2 dwellings for assistant ministers at the rear of Lot 10;
- (e) in carrying out repairs to the existing assistant minister's house at the front of Lot 10;

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- (f) where a sum is borrowed to refinance any prior borrowing on Lot 9, in repaying any moneys owing under the previous mortgage;
- (g) in any other case for such purpose as the Standing Committee approves by resolution.

### **5. Certificate to be Conclusive Evidence**

A document purporting to be certified by the Archbishop or the Secretary of the Standing Committee as a copy of any resolution shall, in favour of any mortgagee or person or corporation claiming under a mortgage be conclusive evidence that such resolution has been duly passed.

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

N M CAMERON  
Chairman of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 26 March 2001.

M A PAYNE  
Secretary

I Assent to this Ordinance.

P W BARNETT  
Administrator  
29/3/2001