

# Darling Point (Cook Estate) Ordinance 2002

No 21, 2002

## Long Title

An Ordinance to authorise the sale of certain land at Newtown and to declare new trusts in respect of funds held for the purposes of the parish of Darling Point.

## Preamble

A. Moore Theological College Council (the "Council") is registered as proprietor of Lot B in DP 440519 known as 24 Queen Street, Newtown (the "Land").

B. The Land is held for the general purposes of Moore Theological College and is church trust property.

C. Clause 3 of the Will of Constance Nancye Fitzgerald Cook made on 18 February 1997 stated:

"I GIVE DEVISE AND BEQUEATH my home at 7 Riddell Street Bellevue Hill (hereinafter called "the property") to THE CHURCH OF ENGLAND PROPERTY TRUST DIOCESE OF SYDNEY to be held upon trust for the Parish of St Marks at Darling Point to be used as a Memorial to late parents GEORGE JOSEPH COOK and LILA CONSTANCE COOK.

I DIRECT that the property be used as a residence, preferably for needy persons or retired clergy or their widows, with first priority to a minister who has served at St Marks Church.

I FURTHER DIRECT THAT any income received from the property be used at the direction of the Parish Council of St Marks Church for the maintenance and upkeep of St Marks Church or for other purposes at the discretion of the said Parish Council.

I GIVE to the Church of England Property Trust a Power of Sale in respect of the property on the condition that the net proceeds of sale shall be used for the purchase of another home or home unit as a Memorial to my late parents to be used for the same purposes as stated above."

D. Anglican Church Property Trust Diocese of Sydney (formerly Church of England Property Trust Diocese of Sydney) (the "Property Trust") has exercised the power of sale and the Property Trust now holds a sum of money pursuant to the terms of the said Will (the "Fund").

E. The Churchwardens of St Marks Darling Point on behalf of the parish council of the parish of Darling Point have proposed to the Council that the Land be sold to the Property Trust for the sum of \$435,000 paid from the Fund to be held by the Property Trust on the trusts created by clause 3 of the said Will so far as they are applicable.

F. By reason of circumstances which have arisen after the creation of the trusts on which the Land is held it is expedient that the Land be sold.

G. By reason of circumstances which have arisen after the creation of the trusts on which the Fund is held it is inexpedient to carry out or observe such trusts and it is expedient to declare new trusts in respect of the Fund.

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

## 1. Name

This Ordinance is the Darling Point (Cook Estate) Ordinance 2002.

## 2. Declarations

(1) By reason of circumstances which have arisen after the creation of the trusts on which the Land is held it is expedient that the Land be sold free from the trusts on which it is held.

(2) By reason of circumstances which have arisen after the creation of the trusts on which the Fund is held -

(a) it is inexpedient to carry out or observe such trusts; and

(b) it is expedient that new trusts be declared in respect of the Fund.

## 3. Sale of Land

(1) The Council is authorised to sell the Land to the Property Trust for the sum of \$435,000.

(2) The Property Trust is to pay to the Council the sum referred to in clause 3(1) within 7 days from the date of assent to this Ordinance.

## 4. New Trusts of Fund

The Fund is held by the Property Trust to be applied in the following manner -

(a) first, in payment of the amount of \$435,000 for the purposes of the Property Trust acquiring the Land pursuant to clause 3 and such other costs of and incidental to such acquisition; and

(b) the balance to be invested with any income arising from the investment to be used at the direction of the parish council of the Parish of St Mark's at Darling Point for the maintenance and upkeep of St Mark's Church or for other purposes at the discretion of the said Parish Council.

## **Darling Point (Cook Estate) Ordinance 2002**

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

NM CAMERON  
Chairman of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 27 May 2002.

MA PAYNE  
Secretary

I Assent to this Ordinance.

PETER F JENSEN  
Archbishop of Sydney  
30/5/2002