

# Hornsby Land Sale and Variation of Trusts Ordinance 2003

No 29, 2003

## Long Title

An Ordinance to vary the trusts in respect of certain land at Hornsby and certain funds held for the purposes of St Peter's, Hornsby, to authorise the sale of the land and to provide for the application of the proceeds of sale and the funds.

## Preamble

A. Anglican Church Property Trust Diocese of Sydney (the "Property Trust") is the trustee of the whole of the land contained in folio identifier 49/3/1880 and which is known as Lot 49 Frederick Street (corner Ashley Street), Hornsby (the "Property").

B. By the will of the late Edith Madge Cotton, the Property is held upon trust for the purposes of St Peters Church of England Hornsby (the "Parish").

C. The Parish wishes to sell the Property and apply the sale proceeds towards the purchase of another property to be used as a rectory for the Parish.

D. The Property Trust is also the trustee of certain sale proceeds arising from the St Peters Hornsby Variation of Trusts and Land Sale Ordinance 1978 (the "Funds").

E. By resolution of the Finance Committee on 5 December 2002 exercising delegated powers of the Standing Committee under clause 4 of the St Peters Hornsby Variation of Trusts and Land Sale Ordinance 1978, the Funds and any income earned on the Funds are held on trust to be used to fund the construction of a new rectory on the Property.

F. The Parish wishes to vary the trusts in respect of the Funds to allow the Funds to be applied towards the purchase of a property to be used as a rectory for the Parish.

G. By reason of circumstances which have arisen after the creation of the trusts on which the Property and the Funds are held, it is inexpedient to carry out or observe those trusts or to deal with or apply the Property for the same or like purposes as those trusts and it is expedient –

- (a) to vary those trusts in the manner set out in clause 3,
- (b) to sell the Property, and
- (c) to apply the proceeds of sale and the Funds in the manner set out in clause 5.

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

### 1. Name

This Ordinance is the Hornsby Land Sale and Variation of Trust Ordinance 2003.

### 2. Declaration

By reason of circumstances which have arisen after the creation of the trusts on which the Property and the Funds are held, it is inexpedient to carry out or observe those trusts or to deal with or apply the Property for the same or like purposes as those trusts and it is expedient –

- (a) to vary those trusts in the manner set out in clause 3,
- (b) to sell the Property, and
- (c) to apply the proceeds of sale and the Funds in the manner set out in clause 5.

### 3. Variation of trusts

Subject to the terms of this Ordinance, the Property and the Funds are held on trust for the purposes of the Parish.

### 4. Authority to sell

The Property Trust is authorised to sell the Property by private agreement or 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 for such price and upon such terms and conditions as the Property Trust considers appropriate.

## **Hornsby Land Sale and Variation of Trust Ordinance 2003**

### **5. Application of sale proceeds and the Funds**

- (1) The proceeds of sale are to be paid to the Property Trust as an addition to the Funds.
- (2) The Funds are to be applied as follows –
  - (a) firstly, in payment of the costs and expenses of and incidental to this Ordinance and the sale of the Property,
  - (b) secondly, in payment of any goods and services tax (as defined in *A New Tax System (Goods and Services Tax) Act 1999*) payable in connection with the sale of the Property,
  - (c) thirdly, to reimburse the Parish all moneys spent in preparation for the sale of the Property,
  - (d) fourthly, to purchase a residence for the minister, an assistant minister or any person employed by the churchwardens of St Peters Church, Hornsby and to carry out renovations, improvements to and provide furnishings for such residence, and
  - (e) the balance (including any capitalised income) for such purposes of the Parish as the Standing Committee may direct by resolution at the request of the parish council of the Parish.
- (3) Pending the application of the Funds (or the balance remaining from time to time) the Funds are to be invested and income earned on the investment capitalised.

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

PETER YOUNG  
Deputy Chairman of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 28 July 2003.

MA PAYNE  
Secretary

I Assent to this Ordinance.

PETER F JENSEN  
Archbishop of Sydney  
29/7/2003